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THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 1

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1932

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND HARBOURS

The Rt. Honourable GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	L'Espérance
Barnard	Lewis
Beaubien	Lynch-Staunton
Béique	McArthur
Béland	Marcotte
Bourque	McDonald (<i>Shediac</i>)
Buchanan	McLennan
Bureau	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Daniel	Murphy
Dennis	Paradis
Donnelly	Pope
Forke	Rankin
Gillis	Raymond
Gordon	Robertson
Graham	Robinson
Green	Ross
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Laird	Turgeon
Lacasse	Webster.

[Quorum 9]

THE SENATE

THURSDAY, November 10, 1932.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A, intituled "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," met this day at 11.30 a.m. in Committee Room No. 262.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: Senator Murdock, are your friends, representing the various railway Brotherhoods here to make any representations?

Hon. Mr. MURDOCK: I see a number of them around here, but I understand that they are not holding their meeting until this afternoon to decide on the gist of the representations that they want to make.

The CHAIRMAN: Would they like to be heard this afternoon?

Hon. Mr. MURDOCK: Two or three of them shake their heads no.

Right Hon. Mr. MEIGHEN: Would it be possible for them to have their meeting and formulate their plans in time to meet us at say 4.30 this afternoon? If they could be ready by that time it would be useful to us.

Hon. Mr. MURDOCK: Two or three of them are shaking their heads. I think they are having some difficulty in condensing what they have to say.

Hon. Mr. DANDURAND: They may simply desire to present a memorandum which we could study at our leisure.

The CHAIRMAN: We are ready if they are.

Hon. Mr. DANDURAND: We were asked yesterday to go through the Bill again in order to study any clauses that seem to need redrafting with a view to bringing out more clearly the intention of those clauses. I feel somewhat disinclined to go into the merits of the clauses themselves before we hear the parties that want to be heard on the merits or the principles of the Bill. I think it is a very good idea to go through the Bill for the purpose of indicating to the draftsmen what should be done in order to clarify the clauses, but I doubt that we should go into the principle of each clause before hearing the parties interested.

Hon. Mr. BUREAU: What is the use of redrafting, then? On what basis do you want to redraft?

Hon. Mr. DANDURAND: It was in order that the wording should more clearly indicate the object of the various clauses. There is some vagueness in some of the clauses, and the impression I got was that we were running through them in order to indicate the clauses that needed redrafting.

Hon. Mr. BUREAU:

Clause 4 reads as follows:—4. (1) No person who is a Senator or Member of the House of Commons, and no person holding or having within five years held any office or position to which any salary is attached payable directly or indirectly by His Majesty, in the right of the Dominion of Canada, or of any of the Provinces thereof, shall be eligible for appointment as Trustee.

(2) Vacancies among the Trustees arising from any reason shall be filled from time to time by the Governor in Council from a list of eight persons then named by the remaining Trustees or Trustee. All Trustees

shall be eligible for re-appointment if so listed. Yesterday we discussed this clause and the advisability of retaining it. That clause would eliminate some very able men, perhaps the ablest in the country, because they had served on a commission.

Right Hon. Mr. MEIGHEN: It might, senator. I tried to point out that the purpose the Royal Commission had in view is not expressed in the clause. Discussion of the clause will help us in the redrafting. It was my idea that the first job of redrafting would be to express more clearly and impregnably the purpose of all the recommendations of the Commission. I do not mean merely to change the form of the Bill; I mean to get the effect of the intention of the Commission. This Bill is supposed to represent the Commissioners' intention; it does not; and so far even as it does, it is defective in draftsmanship. I think we should be a lot better off by the time we meet again next week to have before us a draft that does express the intention of the Commission. If it is the idea of the members here that this clause is unsound in principle, then undoubtedly it should be redrafted and put in another form.

The CHAIRMAN: Whether sound in principle or not, if the draftsmanship is defective we ought to redraft the Bill so as to express clearly the intention of the Commissioners. Then when we come to deal with the principle we shall be in a better position to consider any changes.

Hon. Mr. BEIQUE: I understand this is merely a trial draft.

Right Hon. Mr. MEIGHEN: Yes.

Hon. Mr. BEIQUE: I have drafted a clause in substitution of clause 4, which I consider to be one of the main clauses of the Bill. I do not submit this draft clause at present. I desire merely to place it before the Committee so that it may be considered when we next deal with the Bill. This is my proposed clause:—

Within fifteen days' time of being requested to do so by the Solicitor General of Canada, it should be the duty of the Chief Justices of each province to meet together at the city of Ottawa, and then and there prepare confidentially amongst themselves and the Solicitor General under their respective signatures or of the signatures of a majority of them, a panel of five persons in their opinion best qualified to act as trustees under the present government, and the three trustees referred to in section 3 hereof shall be chosen from the panel above-mentioned.

I think this will be the best way to insure that the choice would be made independently of political considerations.

The CHAIRMAN: This proposed clause is not submitted to-day as a motion.

Hon. Mr. DANDURAND: The idea I understand, Mr. Chairman, is to express in this Bill the real intention of the Commission. In connection with this clause Mr. Meighen said—I do not know if he intended it facetiously—that defeated candidates as well as members of Parliament would be debarred under section 4.

Hon. Mr. BUREAU: Why not? They should be. If this proposed section is ultimately adopted shall we not get in the same position as if we suggested a board of directors of nine men? The Chief Justice of British Columbia naturally will be acquainted with well qualified men in British Columbia, but the Chief Justice of Nova Scotia may not know anything about those men; and vice versa.

The CHAIRMAN: It is a matter for consideration.

Hon. Mr. LAIRD: Would it not be better to discuss these suggestions later on rather than attempt to deal with them on the spur of the moment?

Right Hon. Mr. MEIGHEN: This is the time for discussion.

Hon. Mr. LAIRD: Well, on the spur of the moment I would be unalterably opposed to Senator Beique's suggestion.

The CHAIRMAN: I think it is perfectly right to discuss any suggestions that may be made. Perhaps after Senator Beique has heard criticism of his suggestion he may not think the clause is as good as he thought it was.

Hon. Mr. FORKE: I thought we were sitting this morning for the purpose of making clear the intention of the Commissioners when they made their recommendations. If we are to discuss and amend the Bill clause by clause we shall be here for a considerable time.

Hon. Mr. CASGRAIN: This is simply a notice of motion on the part of Senator Beique.

The CHAIRMAN: Senator Forke, we are doing a good deal of skirmishing—if you will allow me to use the word—so that we may get one another's views, and I think the time is being well spent. We want to get all your views in the early stages of our discussion, because when we come to deal with the Bill finally there may not be such a good attendance. After all, probably the hand-to-hand struggle with the Bill will have to be done by a small number of members.

Hon. Mr. COPP: The whole question before us is whether this Bill expresses the intention of the Commission. Now it does seem to me that the attitude assumed yesterday was the proper one, that we should not decide on any one of these clauses yet. I think Senator Meighen said that there were three or four clauses that should be redrafted to express properly the intention of the commissioners. I submit that we should to-day consider those clauses that need redrafting, and they could be redrafted before we meet next week, in a way that would correctly express the intention of the commissioners. Then next week we could have representations made to us by any person who wishes to make any suggestion as to the revised clauses, and we could decide whether we are in favour of adopting the principle of these and other clauses.

Right Hon. Mr. MEIGHEN: I agree with Senator Copp so far as he has gone, but I think he does not go far enough. It seems to me the discussion would not be so valuable if it followed the strict line that he suggests. If a court of law were interpreting section 4, it would say the intention is to exclude from appointment as a trustee any senator and any member of Parliament, so long as he is a member, and any man who has drawn any salary or remuneration from the Government of Canada in the last five years. That is pretty well expressed, but the commission had a much broader intent, which was to shut out all political appointments. Therefore I think it is important for us to decide whether that should be done. If we decide it should be done, then we will have to consider whether we are in favour of any scheme that may be proposed, such as the one suggested by Senator B  ique. His proposal is that there should be a panel consisting of the chief justices of all the provinces. I think we should discuss that to find out if it meets with general approval, and if it does the section would have to be redrafted accordingly. It is not the intention to take any vote on the matter now but simply to discuss it.

At the moment my view of Senator B  ique's proposal is the same as that expressed by Senator Bureau. I do not think we would find that a panel of the chief justices would be satisfactory. The chief justice of British Columbia, for instance, would not be likely to know who ranked as the ablest business men in central Canada, nor would the chief justice of Nova Scotia be better informed on this point. And, as Senator Bureau remarked, neither of these judges would know the ablest business men in his colleague's territory. I do not want to speak too strongly just now, but only to say that I agree at present with Senator Bureau.

Hon. Mr. BÉLQUÉ: Of course, my object was simply to suggest the way by which appointment might be made independently of political consideration, and I thought that from this point of view the chief justices would constitute the best panel.

Right Hon. Mr. MEIGHEN: No doubt they would be free from political considerations.

Hon. Mr. LYNCH-STAUNTON: Considerable objection was raised yesterday to section 4 because it would prevent the appointment of persons who really never had been in politics at all. Under that section any person who has ever drawn a salary from His Majesty would be disqualified. Now, there are great numbers of men who have been in the pay of the Government and who may have brains, and among them may be someone who is suitable for appointment as a trustee. If the intention is to exclude politicians from the management of the railways, and to prevent the Government from having any influence over the control of the roads, it seems to me that it is necessary only to make the exclusion apply to senators and members of Parliament, and persons who have been members within five years. A man who has not held a seat for five years has usually lost touch with politics and has not much power with the government, unless he be someone of very high ability.

Hon. Mr. MURDOCK: Would the best plan not be to add a section to the Criminal Code making it an indictable offence for any person to submit representations, on political grounds, to any railway officials?

The CHAIRMAN: I doubt whether Senator Meighen and I could agree to the statement of Senator Lynch-Staunton that a former member of Parliament loses touch with politics within five years after his defeat. See if this is not a reasonable viewpoint. There are in every community in the country some leading men who are looked upon as representing the views of the people. Probably one of these men in every riding is elected to Parliament. When the people of a district or town, or whatever it is, want anything done, whether by a railway or any other company or corporation, they instinctively turn to the man who represents them and who is their spokesman. I have approached the C.P.R. as often as I ever approached the C.N.R.—perhaps more often—because the people that I represented thought that I would truly present their views. In doing that, no matter which railway I approached, I never considered that I was taking political action. It is most natural for the people to look to the men that they send to Parliament to make representations on their behalf, wherever they are to be made, and there is really nothing political in the whole situation. I think that sometimes we stress the political viewpoint too strongly. My own view is that a member of Parliament should be as eligible as anybody else for any job in the Dominion of Canada.

Some Hon. SENATORS: Hear, hear.

Hon. Mr. FORKE: I think this is a terrible indictment of the members of Parliament and senators of Canada.

The CHAIRMAN: If there is no more discussion on section 4, let me say that I think it is fair to assume that when we meet again next week the ideas suggested by Senator Meighen will probably appear before us in the redrafted Bill. We expect to get authority to name counsel to do the redrafting.

Hon. Mr. LAIRD: I should like to refer back to clause 3. From reading the clause there is no question what the draftsman intended, but if you go over it carefully you will see that it requires revision. It says:—

The Governor in Council may declare all nominations to the Board of Directors of the Company heretofore made under the provisions of section three of the said Act to be vacated, and may concurrently appoint three Trustees who shall be substituted for the original incorporators of the Com-

pany and their successors, and may exercise (subject to the provisions of this Act) all the powers, rights and privileges and be entitled to all the immunities and subject to all the restrictions of the said Board of Directors, which Board shall thereupon cease to exist.

It seems to me that there is a jumble of "shalls" and "mays" that should be clarified or eliminated in the redrafting. The word "may" in the first line and in the fourth line of the Bill may be all right, but then the clause goes on to say "who shall be substituted for the original incorporators of the Company and their successors, and may exercise" and so on. It seems to me that it should read "shall exercise," because it should be mandatory. I make that suggestion in order to carry out the intention of the section.

The CHAIRMAN: I think the suggestion should be taken into consideration by the man selected to redraft the Bill.

Section 5 reads as follows:—

(1) One of the Trustees shall be appointed by the Governor in Council to be Chairman of the Trustees. He shall hold office for seven years from the date of his appointment. The remaining Trustees shall hold office for different periods of less than seven years, as may be specified by the Governor in Council, in order to prevent any period expiring on the same date, or nearly the same date, as that of any other Trustee.

Hon. Mr. LYNCH-STAUNTON: That, it seems to me, is not very happily expressed.

The CHAIRMAN: They put the date and the trustees in the same category—they are both going to expire. That is one of the things that should be changed. It is very clumsy.

Subsection 2 reads:

Should no action be taken upon the termination of any period of appointment to fill the vacancy then occurring the Trustee then retiring shall continue in office till such action is taken.

Hon. Mr. LYNCH-STAUNTON: It seems to me that the proper way to express that is to say that he shall hold office until his successor is appointed. One can draw half a dozen inferences from all these words.

Hon. Mr. BUREAU: Why should he not go out after his term expires, or be re-appointed immediately?

Hon. Mr. LYNCH-STAUNTON: Some accident may prevent the appointment immediately and the place may remain vacant.

Hon. Mr. BUREAU: And he may stay for another term.

Hon. Mr. LYNCH-STAUNTON: All directorates are appointed in that way.

Hon. Mr. BEAUBIEN: It is always done in that way.

Hon. Mr. BUREAU: If you are going to remove it from politics, why not do so?

The CHAIRMAN: Subsection 3 says:

Any Trustee may be removed from office at any time by the Governor in Council, on address of the Senate and House of Commons.

That simply means that these men are put on the same plane as the Auditor General and the Supreme Court Judges, and can be removed by the Governor in Council.

Right Hon. Mr. MEIGHEN: After investigation, yes.

Hon. Mr. LYNCH-STAUNTON: Is there anything in the Bill to prevent the trustee being removed by Order in Council? A trustee is appointed by Order in Council; may he not be removed by the cancellation of that Order in Council?

Right Hon. Mr. MEIGHEN: I would not think it would be effective in that way.

Hon. Mr. LYNCH-STANTON: A creator can destroy, and there is nothing in the Act to prevent revocation of an appointment by Order in Council.

Right Hon. Mr. MEIGHEN: But a creator cannot create except by authority, and he cannot destroy except by authority. The Governor in Council can create only by the authority of this section, and it gives no authority to revoke.

Hon. Mr. LYNCH-STANTON: Is it not accepted as the general practice that orders in council are revocable unless it is provided to the contrary?

Right Hon. Mr. MEIGHEN: Subsection (1) of section 5 provides that the Chairman shall be appointed to hold office for seven years.

Hon. Mr. BUREAU: Is the Governor in Council bound by that section to make the necessary appointments?

Right Hon. Mr. MEIGHEN: The imperative is never used with respect to the Governor in Council. But the duty is so clear that any Government that did not discharge it would place itself in a very embarrassing position.

Hon. Mr. BEAUBIEN: I think it has been ruled that in such cases "may" means "shall".

Right Hon. Mr. MEIGHEN: I understand it is the view of all members that the trustees shall not have as they have by this drafting, the right to perpetuity of office by merely neglecting to furnish a panel. The drafting will have to be changed.

The CHAIRMAN: Now section 6:

The Chairman shall devote the whole of his time to the performance of the duties of his office.

The Railway Act provides that the Chairman of the Board of Railway Commissioners must reside in Ottawa. Would it not be well to state specifically that the Chairman of the Trustees must reside at the place where the head office of the railway is located?

Hon. Mr. LYNCH-STANTON: This is stipulated with respect to the judges of the Supreme Court of Ontario; they must reside in Toronto.

Right Hon. Mr. MEIGHEN: The appointment is for seven years. The head office of the railway is in Montreal, and it is conceivable that a Toronto man might be appointed chairman of the Board of Trustees. Well, probably he has a greater investment in his home in Toronto than the salary he would draw for the seven-year term.

Hon. Mr. LYNCH-STANTON: I think he ought to live where the head office is.

Hon. Mr. COPP: Such a requirement might exclude some very excellent men.

The CHAIRMAN: It will be worth while considering whether or not this section should be amended.

Section 7:

The Trustees shall be paid by the company such salaries as may from time to time be fixed by the Governor in Council.

Hon. Mr. LYNCH-STANTON: It is conceivable, Mr. Chairman, that a man might take the job of chairman for the honour it would confer on him, and continue to attend to his own business. Would not that be a ground for impeachment? It ought to be.

Right Hon. Mr. MEIGHEN: Of course it would be.

Hon. Mr. LYNCH-STAUTON: Why should not we provide in the Bill that the Chairman shall not be connected with any other business?

Right Hon. Mr. MEIGHEN: I do not think we can go further than compel him to give his whole time to the duties of his office. That means he must relieve himself of all other business engagements involving his time; but it does not mean he has to sell the stock in his own company.

Hon. Mr. BEAUBIEN: It seems to me, Mr. Chairman, that an honourable man would devote all his time to the office. If you are going to force these trustees to abandon all their outside interests you will very seriously restrict the sphere of selection. There are many eminent men who are well qualified for one of these positions but who would not accept if they had to sever connections with all their interests. I have in mind one such gentleman at Toronto, for instance. A man who is appointed as trustee either is honest or he is not; if he is not he can apparently sever all connections with outside interests and satisfy the law, but still he might be the type of man against whom the clause is directed, while on the other hand an honest man could retain all his connections and remain entirely faithful to the trust reposed in him. You cannot make a man honest by law. Therefore I submit that the law should not be so rigid that it would be impossible to select the best men for the positions, for it is the best that we require.

Hon. Mr. LYNCH-STAUTON: But we can punish a dishonest man. I am not impressed with the idea that we should appoint to one of these great positions a man who has a multitude of interests, whose mind is distracted by a variety of affairs. A trustee's job should be a whole time job for the ablest men we can find, and they should not be connected with any other business. Of course, it would be ridiculous to say that a trustee should not be allowed to invest in whatever he chooses, but he should not be engaged in the promotion of any other business.

Hon. Mr. BEAUBIEN: That is a different thing. That is all right.

Hon. Mr. LYNCH-STAUTON: The fact that a man has made a success of one line of business is no guarantee that he will be successful in another direction. The common idea to the contrary reminds me of what an old gentleman said to his son who was about to go on a grand tour a hundred years ago. His remark was, "Go out and see what little brains it takes to govern the world." When you meet men who are at the head of great interests you find that there is just as much clay in their feet as there is in yours. I think that we should not appoint a man as trustee simply because he has made an outstanding success in some other line of work.

Hon. Mr. LEWIS: Adding to what Senator Lynch-Staunton has said, I submit that we certainly should exclude from appointment a man who is a director of the Canadian Pacific Railway, or who is engaged in the manufacture of railway supplies. If we exclude men in these two classes, where are we going to draw the line? I think there should be some provision with regard to directorships.

Hon. Mr. LAIRD: It seems to me of fundamental importance that the Bill should provide where the headquarters of these officers shall be.

Right Hon. Mr. MEIGHEN: That is covered. The head office is in Montreal.

Hon. Mr. BUREAU: We ought to provide in this section that a trustee should know something about railroading. A man may be a very successful merchant or banker but a poor railroad executive.

The CHAIRMAN: Would anyone suggest that these appointments ought to be made by the Civil Service Commission?

Hon. Mr. LYNCH-STAUTON: Would the appointees have to pass an examination?

The CHAIRMAN: It strikes me that perhaps there is danger in the provision that a trustee may be removed from office only on address of both Houses of Parliament.

Hon. Mr. LYNCH-STAUNTON: I think, Mr. Chairman, that you are right.

Hon. Mr. BALLANTYNE: There is a good deal to be said for the other side too. It is necessary that we get capable men for these positions. If the right type of man were approached he would ask for what term the appointment was to be, and he would be told for seven years and that he could be removed only on address of both Houses. That, I think, would be satisfactory. But if on the other hand he were told that he could be removed at any time by an Order in Council, he would be likely to say, "Thank you. I don't want the position."

I do not think that the best kind of man would be necessarily a railway man, but rather a big executive. He would have all the technical officers required to advise him with regard to details.

Hon. Mr. BUREAU: That right kind of man, a railway man who knows his business, will not be particular whether there is any legislation to ensure the permanency of his office. I am inclined to think that a man who would say, "I want to be sure of the job for a number of years," would not be qualified for the position, because a qualified man would realize his own ability and know that so long as he carried on properly he would retain the position.

Hon. Mr. LYNCH-STAUNTON: The president, the general manager and other officials of every railroad are subject to dismissal at any time, if their services are not satisfactory. Why should there be an exception made in this case?

Hon. Mr. BALLANTYNE: We all know very well that governments are governments and politics are politics. We may succeed in getting very capable men as trustees, but if there is no such provision as this section contemplates they would be liable to removal from office at any time there was a change of government.

Hon. Mr. BEAUBIEN: Considered from another angle, Mr. Chairman, it is perhaps wise that the trustees should not be liable to removal from office except as provided here. The task that faces the trustees is a very difficult one, and it may be that they will find it necessary to do things that are unpopular with some interests. Now, if the trustees are subject to removal by political pressure there is sure to be strong attack made upon them in certain quarters. On the other hand, if they are entrenched in their positions, like judges, only impeachment could remove them, and there would be no attacks made upon them on political grounds. If they are not well safeguarded their time, like that of politicians, first of all will be devoted to remaining in the saddle, and afterwards to directing their steed. We do not want the trustees devoting most of their time and energies to that.

Hon. Mr. LYNCH-STAUNTON: I think that what Senator Ballantyne said is quite right.

Right Hon. Mr. MEIGHEN: I think you can depend upon it that any man who accepts this office of chief is going to devote his whole time to it. Furthermore, his reputation will be at stake. He is going to be an outstanding man in the country, and I do not think we need do anything more to indicate that this is a whole-time job.

The CHAIRMAN: Section 7 says:—

The Trustees shall be paid by the company such salaries as may from time to time be fixed by the Governor in Council.

Is there anything in the suggestion that someone should make a recommendation?

Hon. Mr. BUREAU: How would it be if that were done by the authority that chooses the panel from which they are to be selected?

The CHAIRMAN: Of course, if it is done by Order in Council it will be done on the recommendation of the Minister of Railways.

Hon. Mr. LYNCH-STANTON: There seems to be a very exalted idea of what these men should be paid. I do not think they should get \$75,000 a year.

The CHAIRMAN: You cannot get the best without paying for it.

Hon. Mr. LYNCH-STANTON: If you hold out a job paying \$25,000, or \$50,000, you will have plenty of applicants.

The CHAIRMAN: You cannot do too much experimenting with a public utility.

Section 8 says:—

(1) A majority vote of the Trustees, if it includes the vote of the Chairman as one of the majority, shall be final.

Hon. Mr. BUREAU: Why should a majority be subject to the will of one man?

Hon. Mr. LYNCH-STANTON: That simply means that they cannot override the Chairman.

Hon. Mr. BUREAU: The Chairman can override the other two.

Right Hon. Mr. MEIGHEN: Oh, no.

Hon. Mr. BÉRIE: He must have one of them with him.

Hon. Mr. BUREAU: Why not say that a majority vote of the trustees shall be final?

Hon. Mr. LYNCH-STANTON: The Chairman is supposed to be a big man.

Right Hon. Mr. MEIGHEN: He is a responsible man, and it is so that he cannot escape his responsibility.

Hon. Mr. BUREAU: He could register his assent.

Right Hon. Mr. MEIGHEN: But he is going to be held responsible for the proper management of the system, and nothing, therefore, could be done over his head.

Hon. Mr. BUREAU: The others are jointly responsible.

Right Hon. Mr. MEIGHEN: They do not give all their time. If you make him responsible you should give him power to override the others. In that respect I think this recommendation of the Commission is fundamental.

The CHAIRMAN: Don't you think, gentlemen, that the underlying principle of this Bill is concentrated authority?

Right Hon. Mr. MEIGHEN: That is it.

The CHAIRMAN: And every one of the sections tends in that direction.

Hon. Mr. McMEANS: Is there any provision covering the case of an appointee who becomes mentally or physically incapable of carrying on?

Right Hon. Mr. MEIGHEN: Yes.

The CHAIRMAN: Subsection 2 of section 8 reads:

Meetings of the Trustees may be held at such time and place as the Trustees may from time to time decide. When no meetings are held, decisions may be made or votes recorded by written minutes or concurrences in any form, signed by the Trustees or by such majority.

Right Hon. Mr. MEIGHEN: I think that is all right.

Hon. Mr. LAIRD: What section provides for headquarters?

The CHAIRMAN: The Canadian National Act provides that Montreal shall be the headquarters of the company.

Hon. Mr. LAIRD: I mean the headquarters of the Trustees.

Right Hon. Mr. MEIGHEN: The Trustees' head office would have to be at the head office of the company. The Act says that the head office of the company shall be at such place in Canada as the Governor in Council may from time to time determine. In 1923 the head office was moved from Toronto to Montreal, and it is there now under the authority of the statute.

Hon. Mr. LEWIS: Subsection 2 of section 8 provides that when no meetings are held decisions may be made or votes recorded by written minutes or concurrences in any form. Is there not danger of this becoming a practice to meet the convenience of easy-going Trustees? It seems to me that it would do away with the benefit of consultation.

The CHAIRMAN: Undoubtedly that is an objection, Senator Lewis. But many things arise every day in the operation of a railway, and it might be difficult to secure the daily attendance of Trustees who are not devoting all their time to the duties of their office. In this event it would be unfortunate if the chairman did not have power to take action and then have it concurred in by the other trustees, and this concurrence would have to be in writing.

Hon. Mr. LEWIS: I am referring not to routine matters, but to matters of importance.

The CHAIRMAN: If something of importance arose I think the Chairman would call a meeting; but in dealing with matters not of vital importance you have to have some short way of transacting business. I think that provision is all right.

Hon. Mr. BEAUBIEN: I think so.

The CHAIRMAN: Section 9:—

The persons so appointed as the Trustees of the Company and from time to time acting as such, shall automatically become and shall act as Trustees in lieu of the respective Board of Directors of all companies in Canada comprised in the Canadian National Railways, as defined in the said Act, and allied enterprises, notwithstanding anything to the contrary in any statute or law, with and subject to the same powers, rights, privileges, immunities and restrictions as are mentioned in section three of this Act.

Hon. Mr. LYNCH-STAUNTON: Those "allied enterprises" have to go out, haven't they?

Hon. Mr. PARENT: Does that include steamships?

Right Hon. Mr. MEIGHEN: No, because the Canadian National steamships are owned directly by the Canadian National. I do not see any objection to the use of the words "allied enterprises." The definition in subsection 2, section 2, part 1, is applicable to the first fourteen sections. This means only allied enterprises of the Canadian National. I do not think the company controls smelters or other similar enterprises. The term has to do with telegraph and express services. Where the term is applicable to the Canadian Pacific a different question arises, and I think we shall have to make very important amendments there.

Hon. Mr. BUREAU: Is the hotel system included?

Right Hon. Mr. MEIGHEN: The hotels of the Canadian National are owned by the Canadian National. The hotels of the Canadian Pacific are owned by a subsidiary company.

Mr. FLINTOFF (General Counsel, C.P.Ry.): One hotel is so owned, but generally speaking the Canadian Pacific hotels are owned directly by the company.

Hon. Mr. WEBSTER: They have a coal mine in the United States.

Right Hon. Mr. MEIGHEN: Of course if the coal mine is in the States this section does not apply.

The CHAIRMAN: There may be some difficulty in straightening out that situation. Where we have enterprises in the United States they will have to be conducted under the statutes of the various states.

Hon. Mr. LYNCH-STANTON: What provision is there in the Canadian National Act with regard to the American interests of the Company?

Right Hon. Mr. MEIGHEN: There is no provision in the Canadian National Act or in any other legislation which would compel the Canadian National to do anything in respect of its subsidiaries in the United States contrary to the laws of those states, because such legislation would be wholly inoperative, if not worse. That situation is left exactly as it is. The Canadian National Railway Company has subsidiaries. Certain of those subsidiaries are in the United States. The company controls them by virtue of its ownership, but that control must be exercised in accordance with United States law.

Hon. Mr. LYNCH-STANTON: That legislation is satisfactory, is it not?

Right Hon. Mr. MEIGHEN: I can remember very serious premonitions on the part of others as to that, but the legislation has worked out very well.

The CHAIRMAN: Section 10:—

No decision, order or regulation, and no action or other proceeding of the Trustees of the Company shall require any approval of any shareholders of any company in Canada comprised in the Canadian National Railways, including His Majesty the King in the right of the Dominion or any Province thereof.

Hon. Mr. LYNCH-STANTON: Does the term "Canadian National Railways" cover all these subsidiary interests of the Canadian National?

Right Hon. Mr. MEIGHEN: They are defined by the Canadian National Railway Act. I think the reference to that definition should be inserted—"as defined by the Act."

Hon. Mr. LYNCH-STANTON: Yes. The preceding section mentions the Canadian National Railways and allied enterprises. Would not the Canadian National Railways as defined by the Act include allied enterprises?

Right Hon. Mr. MEIGHEN: Probably it does.

The CHAIRMAN: Probably this citation from chapter 10 of the statutes of 1929 will help:—

1. Section two of the Canadian National Railways Act, being chapter one hundred and seventy-two of the Revised Statutes of Canada, 1927, is amended by adding at the end thereof the following subsection:—

(e) Canadian National Railways, means the Canadian National Railway Company and includes also all the companies, in Canada, mentioned or referred to in the Schedule to the Canadian National Railways Act, and in the first schedule to chapter thirteen of the Statutes of Canada, 1920, and any company formed by any consolidation or amalgamation of any two or more of such companies, and includes also all other companies hereafter from time to time declared by the Governor in Council to be comprised in the Canadian National Railways, which declaration the Governor in Council is hereby authorized to make.

Hon. Mr. LYNCH-STANTON: What is the use of these words "allied enterprises"?

Right Hon. Mr. MEIGHEN: I must admit that as applied to the Canadian National, in the light of the definition, I do not see any use in them. But that is something to be looked after in the redrafting.

Hon. Mr. DANDURAND: The draftsman of this Bill may have had some special reason in mind, and I suppose he will be communicated with?

Right Hon. Mr. MEIGHEN: Oh, yes.

The CHAIRMAN: Unless there is further discussion on this matter we may now pass on to section 11, which reads:—

The direction and control of the Company, and of all other companies comprised in the Canadian National Railways and allied enterprises shall be vested in the Trustees, subject as aforesaid, and the Trustees may appoint, on terms to be fixed by them, a person other than a Trustee who shall perform the duties of Chief Operating Officer with the titular rank of President, but exercising only such powers or authorities as are from time to time given to him by by-law or resolution of the Trustees with respect to the detail workings of the railway and allied enterprises. The Trustees shall always consult with the President in respect of such detail workings and shall endeavour where reasonably possible to give effect to his recommendations. The President shall report and be responsible to the Trustees, alone, in respect of the performance of his duties.

Right Hon. Mr. MEIGHEN: Perhaps the word "operations" would be better than the word "workings" in line twenty-six, to read "with respect to the detail operations of the railway and allied enterprises".

Hon. Mr. LYNCH-STAUNTON: Why is it necessary to say, at the beginning of the section, "all other companies comprised in the Canadian National Railway and allied enterprises"?

Right Hon. Mr. MEIGHEN: The companies are defined in the Act now by the definition that Senator Graham read.

Hon. Mr. DANDURAND: Is the Intercolonial included?

Right Hon. Mr. MEIGHEN: No.

Hon. Mr. BUCHANAN: Where would the Northern Alberta Railway come in?

Hon. Mr. LYNCH-STAUNTON: Before the Chairman deals with that, may I point out another thing. The section says: "The Trustees shall always consult with the President in respect of such detail workings." To say the least, that seems to be unnecessary. Of course the trustees would consult with the president.

Hon. Mr. GRIESBACH: I should think these words have no effect at all.

Hon. Mr. LYNCH-STAUNTON: I do not like to see an Act of Parliament made an essay on railway business. Any words that are used should have some object.

Hon. Mr. FORKE: The president is the manager, not the trustees.

Hon. Mr. LYNCH-STAUNTON: Of course, and the president is answerable to them. They must consult with one another.

Right Hon. Mr. MEIGHEN: No harm is done by having the words included.

Hon. Mr. BUREAU: Those words could be included in the by-law appointing the president. And what could Parliament do if the president complained that he was not consulted?

Right Hon. Mr. MEIGHEN: I think this is how the words came to be inserted. The commissioners made a report and naturally they indicated, in a form that the public could clearly understand, the general method that they recommended for the management of the company, and they say that the trustees shall consult with the president. When the recommendations of the

commissioners were put into the form of a statute, that recommendation was included. I do not think it does any harm in this instance, although my idea of draftsmanship is that no words should be included unless they have a distinct legal effect. I know that there are pretty good draftsmen who think that there is an advantage in so wording a statute that persons other than lawyers, such as officials who have to carry out the Act, will understand what their duties are, even though those duties are provided for elsewhere and need not be stated in the Act. Perhaps on that ground the inclusion of the words here can be justified. I thoroughly agree with Senator Lynch-Staunton that the legal effect would be the same if the words were left out.

The CHAIRMAN: There is a possibility that the trustees at some time may not agree with something that is suggested by the president. Now, in such circumstances they might make a bad mistake if they went ahead and did something without consulting the president. His duties would be defined, and I think it ought to be part of their duties not to order that detailed operations be carried out without consulting the president. In the past, members of a railway executive have been known to disagree slightly, and instead of consulting with the president they have approached the Minister of Railways. In my view that is an entirely wrong thing to do, for they should discuss all these things with their chief officer. A similar state of affairs might develop if there were not some provision preventing it. Of course, the matter can be covered in a by-law or regulation, but a statute has much more force.

Hon. Mr. GRIESBACH: Are you suggesting, Mr. Chairman, that the president should have the right of appeal to someone over the heads of the trustees?

The CHAIRMAN: No, but just the other way about.

Hon. Mr. GRIESBACH: I think the trustees are empowered to employ a president on terms to be fixed by them. The person so appointed should be clearly the servant of the trustees, without recourse to appeal of any sort. If we leave it at that, then he will carry out their policy. They will prescribe the policy; he will carry it out. Where they differ, they will go to the mat. I would leave out these last words, "The trustees shall always consult," and so on.

The CHAIRMAN: It will be considered in the redrafting of the Bill.

Right Hon. Mr. MEIGHEN: I have made some rather severe strictures on the drafting of the Bill, and perhaps an explanation should be made. First of all, there is no one distinctly responsible, for several were engaged in the work. Their instructions were simply to put the recommendations of the report into the form of a draft Bill, and no doubt it was felt by those who did the work that it was not intended to be done with anything like the finality with which such work is usually done.

The CHAIRMAN: The following telegram has been received from the Acting President of the Canadian National Railways:—

MONTREAL, QUE., November 10, 1932.

Rt. Hon. GEORGE P. GRAHAM,
Chairman, Senate Railway Committee,
Ottawa, Ont.

Your telegram November eighth Canadian National has no particular further representations to make as situation stands at present but desires to reiterate our conviction that the two systems should be under separate management but in active co-operation with a view to avoidance of any wasteful expenditures and unsound competition. Our officers are at disposal of your committee if needed.

S. J. HUNGERFORD.

Hon. Mr. ROBINSON: Is it the intention to hear representatives of one road and not of the other?

Right Hon. Mr. MEIGHEN: Any who wish to be heard.

Hon. Mr. ROBINSON: I think that both should be treated exactly alike.

The Committee adjourned at 1.05 p.m.

The Committee resumed at 3.50 p.m.

Right Hon. G. P. GRAHAM in the Chair.

The CHAIRMAN: Gentlemen, we are anxious to hear any persons who may wish to present their case before Parliament adjourns, probably next week. Is anyone present to speak for the Halifax Board of Trade or for the Labour men?

Hon. Mr. MURDOCK: Mr. Chairman, the representatives of the various railway brotherhoods are in the city discussing their respective views, and they would much prefer to present their case when the Committee reconvenes if Parliament is likely to adjourn within the next ten days.

Hon. Mr. DENNIS: The Halifax Board of Trade, in co-operation with the Provincial Government of Nova Scotia and the City Council of Halifax, are anxious to appear before the Committee. They are going into their case very fully, and it is my personal view as a member of the Council of the Halifax Board of Trade that they would like to have all the time they can to prepare their presentation.

Hon. Mr. DANDURAND: Has our colleague any idea of what the Halifax Board of Trade want to bring before us? I have heard that for a number of years they have been complaining that there is not sufficient competition between the Intercolonial and the C.P.R.

Hon. Mr. DENNIS: I feel confident, Mr. Chairman, that the people of the Maritime Provinces wish to co-operate in every way possible with respect to this Bill. However, we have some problems that we should like to have presented to the Committee by experts in transportation. In order that we may marshal our facts and present them to the Committee in an intelligent form we desire ample time.

Hon. Mr. DANDURAND: I know Sir William Van Horne at one time was very desirous of leasing or purchasing the Intercolonial railway so as to have a through line from Saint John and Halifax to Cape Breton, for he thought he could establish a fleet of twenty-five knot steamers to cross between Cape Breton and Ireland in two and a half days. I am sorry that such a good man did not live to see the Empress of Britain cross the Atlantic in a few hours over three days.

The CHAIRMAN: I understand we shall probably meet again next Thursday morning. In the judgment of the Committee would it be proper to invite the President of the C.P.R. to appear before us that morning?

Some Hon. SENATORS: Hear, hear.

The CHAIRMAN: I take it that Senator Dennis feels the Maritime Provinces' case would not be ready for presentation next week. Senator Murdock has told us that the Labour representatives are not ready to proceed. As therefore we shall not be able to complete our work next week, what does the Committee say to postponing our hearing of the Labour and Maritime Provinces cases until after recess?

Some Hon. MEMBERS: Carried.

The CHAIRMAN: In order that I may advise President Beatty, what time shall we meet next Thursday, 10.30 a.m.?

Some Hon. MEMBERS: Carried.

The CHAIRMAN: The Committee was authorized by the House to engage counsel to redraft this Bill. Have you anything to propose, Senator Meighen?

Right Hon. Mr. MEIGHEN: The Government has acquiesced in the request of the Senate. I have not yet been able to communicate with counsel, inasmuch as I can only be in one place at a time, but I can assure the Committee that counsel will be set to work with a view to attaining the object that I have tried to outline to the Committee. The redrafted Bill will probably be ready for the opening meeting of the Committee next Thursday.

Hon. Mr. LACASSE: Mr. Chairman, we have some of the most distinguished legal lights in the Senate. I can say this all the more freely because I do not belong to the profession. In view of this I do not see why we should incur the expense of engaging counsel, particularly in these trying times. Of course, I recognize that the House has authorized the Committee to engage a legal expert, but again I protest against the expenditure which this will involve.

The CHAIRMAN: I am for economy always. But don't you think, Senator, we should have difficulty in keeping our best legal lights at work on this Bill until next Thursday?

Right Hon. Mr. MEIGHEN: In my judgment it will take not only day work but some night work, to get the Bill in shape by next Thursday. If the senator will name me a man who is prepared to attend to this work—one of sufficient standing at the Bar, as of course I know he will be if he is recommended by my honourable friend—I shall be very glad to have his assistance.

Hon. Mr. LAIRD: Under part II of this Bill the Government is taking very wide powers to bring the Canadian National and the Canadian Pacific into co-operation. As we are all aware, the Canadian Pacific was incorporated in pursuance of an agreement made between the company and the Government of Canada. The company so incorporated has carried out all the terms of the agreement and has developed a transportation system in which is invested over a billion dollars. This Bill contemplates action that might limit or wipe out some of the powers given to this railway under its original charter, and no doubt this feature will be the subject of considerable discussion before the committee finishes its work. In order that we might get certain information with respect to the incorporation of the company, I think that we should have before us the copy of the original agreement that was made with it. Of course I know that agreement is contained in the statutes of the time, but there have no doubt been some amending Acts, and to search for them all would be, for a layman, like looking for a needle in a haystack. I was wondering if there are in existence any printed copies of that agreement to which we could have access, for I believe that it would be of material interest to everyone of us to know what the original agreement contains. Only with that information in our possession could we know to what extent, if any, the contractual relationships between the company and the Government might be affected by the proposed legislation. Not only would it be difficult for some of us to locate the agreement in the statutes, but there are not sufficient copies of the statutes to go around if we all wanted to look at them. Therefore I would ask that if there are any separate copies of the agreement available they should be circulated among members of the committee.

Right Hon. Mr. MEIGHEN: I do not know of any separate copies. The agreement would, of course, be embodied in the statutes, and there have been amendments. This company, like every other big institution of the kind, has had quite a statutory history. The company itself may possibly have their charter and the statutes pertaining thereto printed in pamphlet form.

The CHAIRMAN: I suppose there have been new statutes passed from time to time that materially affect the original agreement. I remember discussing quite often one such statute, with Mr. Creelman of the Canadian Pacific

Legal Department. That was with respect to the power that formerly belonged to the Minister of Railways to say where new lines should be located, that authority having later been delegated to the Board of Railway Commissioners who now do that work. In order that we might know what the agreement covers, it would be almost necessary to have copies of all the amended statutes.

Hon. Mr. LAIRD: The point I am making is that this Bill, if passed, would seriously conflict with some of the original powers given to the Canadian Pacific Railway under its charter. How can this committee proceed to consider the proposed legislation unless we have a knowledge of what the original agreement was? It is all very well to say it is in the statutes, but some of us are not lawyers and do not know how to read statutes.

The CHAIRMAN: Some lawyers do not know how to write them. Do you not think that the president of the company will present that view to us, if he thinks it is important?

Hon. Mr. LAIRD: I think we can rely upon it that he will do so, but at the same time I should not like to take the ipse dixit of the president of the Canadian Pacific Railway in preference to that of any other interested party.

Mr. E. P. FLINTOFT (General Solicitor of the Canadian Pacific Railway): Mr. Chairman, the statute is printed in pamphlet form by the government printing bureau. That is where we get any copies that we have. The Act, 44 Victoria, chapter 1, contains the agreement, and my recollection is that except with reference to one particular feature, namely the building of railways south of the main line, the contract has not been amended.

Hon. Mr. DANDURAND: Was the Crowsnest agreement included in that?

Mr. FLINTOFT: That was made in 1897, and had to do with rates.

Right Hon. Mr. MEIGHEN: Of course, if Parliament has added powers from time to time, the Canadian Pacific will have no objection if some are taken away?

Mr. FLINTOFT: I should not like to say anything about that at the moment.

Hon. Mr. BUREAU: Could we not inquire if the printing bureau has some copies of the agreement?

The CHAIRMAN: I will ask the Clerk to see if there are any in print.

Hon. Mr. MURDOCK: You will notice that the first part of that section says a president may be appointed, and later it says he shall always be consulted.

The CHAIRMAN: That will be called to the attention of the draftsman to see if the idea of the Commission and of the gentleman who drew this Bill is legally expressed.

Section 12 says:—

The annual budget of the Company, and its allied enterprises, shall be under the control of the Trustees. Amounts required for income deficits, for interest on obligations outstanding in the hands of the public, for capital expenditures and for refunding or retirement of maturing securities shall be submitted by the Trustees to the Minister of Finance for the consideration of the Governor in Council prior to presentation to Parliament. Income deficits shall not be funded but amounts necessary to meet them shall require to be voted annually by Parliament. Amounts provided by Parliament to meet capital expenditures of any kind shall not be diverted by the Trustees to cover deficits in operation without the express authority of Parliament.

Right Hon. Mr. MEIGHEN: I think that is fairly well put.

The CHAIRMAN: Section 13 reads as follows:—

The Trustees shall make an annual report which shall be submitted to Parliament, setting forth in a summary manner the results of operations and the amounts expended on capital account in respect of the enterprises under their control; also such other information as appears to the Trustees to be of public interest or necessary for a reasonable understanding by Parliament of any situation then existing, or as may be required from time to time by the Governor in Council.

Hon. Mr. McLENNAN: I intend to propose adding to that, after the word "interest" in the third line on page 4 of the Bill "particularly in regard to changes in organization or otherwise by which in their opinion the railway systems of Canada can reach the highest possible efficiency." We are travelling over an unknown land with an untried machine. The trustees will learn about the conditions and the possibilities of improving this Act quicker than anybody else can, and it seems to me desirable that they should bring before the public, so that the public and Parliament may be educated, all information as to suggested changes for the improvement of this Act or anything that may be substituted for it.

The CHAIRMAN: You will have an opportunity to move that amendment when we bring in the new Bill.

Section 14 says:—

A continuous audit of the accounts of all the enterprises under the control of the Trustees pursuant to this Act shall be made by independent auditors appointed by Parliament each year. The auditors shall make a report to Parliament in respect of their audit calling attention to any matters which in their opinion require consideration, or any remedial action. The auditors shall be paid by the Company such amounts as are from time to time approved by the Governor in Council.

Right Hon. Mr. MEIGHEN: So that the draftsman will have it in mind, I call to the attention of the committee the necessity of providing for the continuance of the present audit until auditors are appointed under the Bill. It might be that the authorization of the present auditors would expire before Parliament could act. It would not do to have even one day intervening.

Hon. Mr. BEAUBIEN: Until this Bill is sanctioned there is no change in the old régime, and therefore the old audit would continue until the coming into operation of this Bill, when a new firm automatically would take up the audit.

Right Hon. Mr. MEIGHEN: But I want to be certain that the present auditors are in charge until the new auditors take their place. I am not saying there will be new auditors.

Hon. Mr. LAIRD: This audit refers only to the affairs of the Canadian National?

Right Hon. Mr. MEIGHEN: Yes.

Hon. Mr. LAIRD: Not to the C.P.R.?

Right Hon. Mr. MEIGHEN: Oh, no.

The CHAIRMAN: Now we come to the second part of the Bill:—

PART II

CO-OPERATION BETWEEN THE NATIONAL COMPANY AND THE PACIFIC COMPANY

15. In this Part, unless the context otherwise requires, (a) National Company means the Canadian National Railway Company, and includes any company comprised in the Canadian National Railways, as defined

in the said Act, or allied enterprises, and also the Company in its capacity as Manager of certain of the Canadian Government Railways entrusted to it by Order in Council;

(b) Pacific Company means the Canadian Pacific Railway Company and includes any company comprised in its system or controlled by or allied with it.

Right Hon. Mr. MEIGHEN: It will be noted that "National Company" is not so defined in Part I. That is the way the definition should read. There must be some definition of "allied enterprises" if the term is to be at all applicable to this part.

Hon. Mr. ROBINSON: Those words should also appear in Part III.

The CHAIRMAN: It is clearly understood, I think, that these definitions will have to be rewritten.

Section 16:—

- (1) Notwithstanding anything to the contrary in any statute, the National Company and the Pacific Company in the interests of economy shall adopt forthwith, or as soon as practicable, such co-operative measures, plans and arrangements as shall, consistently with the proper handling of traffic, be best adapted to the removal of unnecessary, wasteful or uneconomical services, to the avoidance of duplication in services or facilities, and to the joint use and operation of all such properties as may conveniently and without undue detriment to either party be so used, and to the meeting of competition in traffic in any form. The parties shall endeavour to make fair and reasonable adjustments and arrangements so that the burden and advantage of all such economies shall be shared as nearly as possible on an equitable basis between them.
- (2) Any such measures, plans or arrangements may, where deemed desirable, include or be effected by means of—
 - (a) New companies controlled by stock ownership, equitably apportioned between the companies;
 - (b) Leases, entrusting agreements, or licences, or agreements for the pooling and division of earnings arising from the joint operating of any part or parts of freight or passenger traffic;
 - (c) Joint trackage, running rights, joint ownership, or joint operating agreements, depending upon the nature of the property or services included in any co-operative plan;
 - (d) Joint or individual highway services, or highway and railway services combined, in any form; but nothing herein shall be taken to authorize any amalgamation of any National Company with any Pacific Company.
- (3) All or any of such measures, plans and arrangements may, if agreed to by the parties, be made terminable at will or on or after stated notice, or for a fixed period or periods, or any combination thereof, and may from time to time on similar agreement be changed, altered, varied, amended or renewed, as may be considered expedient in the best interest of the parties or in view of changing conditions.
- (4) In order effectually to carry out the instructions to co-operate in this Part enacted, it shall be the duty of the Trustees by themselves and/or their officers to meet at regular intervals so far as possible with an equal number or any number of the Directors and/or their officers of the Pacific Company for the purpose of discussing, and, if possible, agreeing upon any matter referred to in this Part of the Act.

Right Hon. Mr. MEIGHEN: This is the heart of the Bill, and I should like to hear what you gentlemen think of it.

Hon. Mr. McLENNAN: I should like to see the third line of the first subsection after the words "interests of economy" the words "and efficient service."

Right Hon. Mr. MEIGHEN: It is well worth thinking whether or not the words should be inserted. Of course, the Commission had in mind one great purpose—economy. They had no complaint to make about efficient service; on the contrary, they thought it too luxurious. It will be noticed that any co-operative arrangements are to be "consistent with the proper handling of traffic". Perhaps the words "and other business" might be added after the word "traffic", for lots of their business is not traffic. But I wish to emphasize that the great objective of this legislation is not to attain better service, but the greatest possible economy.

Hon. Mr. McLENNAN: Quite so for the time being; but Canada is not going to remain forever in the present trough of depression, and some day the question of giving the most efficient service will become important.

Right Hon. Mr. MEIGHEN: That is right.

Hon. Mr. CALDER: Two considerations govern the whole clause: first, co-operation; second, economy. Those must be related to the proper handling of traffic. I conceive there will be many matters that do not relate to the handling of traffic as we understand the term, and those probably should be covered.

Hon. Mr. McLENNAN: Efficient service would cover the handling of traffic.

Hon. Mr. CALDER: If the trustees eventually find themselves hampered in that direction they will have to come back and get further powers. Just now I would rather confine them to economies.

Right Hon. Mr. MEIGHEN: I think at this stage it would be well to discuss the very heart and purpose of the measure. I have had a letter from an eminent counsel saying, You should stop with the legislation embodied in this clause; that is to say, you should call upon the two companies to get together and agree upon effective steps to reduce ruinous competition by duplication of service in terminals, in trackage, and in other directions, but you should not compel them to do so. At this point the objection raised by Senator Laird applies, that when you seek so to compel the Canadian Pacific, you in a measure subtract from its autonomy as established by charter. That there is force in the objection I do not deny. On the other hand, the Committee will have to inquire what will be the result if we follow that suggestion, merely state the objective to be attained and say to the two companies that they must do something to attain it. What is going to be the result if you stop there? In certain cases the approval of the railway commission may be necessary, but there has been nothing to prevent the railroads from getting together and doing these things at any time in the past eleven years. But we all know it has not been done. We all know that whether the fault was with one company or both, the public of Canada, as shareholders of the Canadian Pacific and as whole owners of the Canadian National, in addition to other shareholders of the Canadian Pacific, have had to pay the bills because the railways did not get together. The commission says, in effect, "We have no confidence that the companies will act differently in the future from the way they have acted in the past unless there is some machinery for making co-operation compulsory. And rather than recommend anything in the way of amalgamation we suggest that such machinery be provided and advise Parliament to pass legislation to that end."

I do not know what the attitude of the Canadian Pacific Railway will be, but it is quite conceivable that its directors may say, "We have certain rights. We are responsible for running our road and you have no business to step in and take away any portion of the responsibility or the rights that we have." Ordinarily we would have a great deal of sympathy with that argument. On the

other hand, no statutory right would be taken away from the Canadian Pacific Railway by leaving things as they are. We have financed the Canadian National out of taxes and loans, to which, as the commission has reported, the Canadian Pacific, the largest taxpayer, has had to contribute. I say that that state of affairs can be continued without any interference with the statutory rights of the Canadian Pacific, but there would be a serious impairment of the powers of the management of that road to keep their enterprise on a paying basis and to maintain its standing as a great institution. It has enjoyed a very high reputation in this respect for a long term of years, and it is undoubtedly in the interests of the country that it should continue to enjoy it for years to come. By leaving things as they are the Canadian Pacific can be ruined by a continuation of the mad competition with the Canadian National.⁴

The commission wrestled with the problem for nearly a year, and they now say to us, in effect, "Unless you are going to amalgamate the roads—and we do not recommend that; the people of Canada do not want amalgamation—we think it is essential to have compulsory co-operation." It can be argued, I suppose—I say this with hesitation, because I am not a railway man—that ultimately one road will have just as much to gain as the other from co-operation. If savings can be made while good service is continued, then out of every dollar saved a certain number of cents will go to one road and a certain number to the other, with a consequent benefit to the whole Dominion. I am not touching now on any feature as it especially concerns labour. I have merely said enough to indicate what the naked problem is, and I have done so for the purpose of inviting honourable senators to come to grips with it this afternoon and to let us have their views. The Canadian Pacific Railway's case will be presented to us later, but we know now what the question is. We have been facing it here for years and not much illumination can be obtained from any outside source, even from the Canadian Pacific Railway itself. I should like to hear some suggestions, especially from senators who feel that the path that is recommended by the commission is a wrong path, and to learn what in their opinion would be the right one.

Hon. Mr. DANDURAND: Mr. Chairman, I am one of those who have thought and said that the path recommended by the commission, and indicated in this Bill, leads in the right direction. Co-operation will help to bring about economies to a certain degree. In the past the two railways have worked together to some extent, but this Bill would force them to co-operate in some things. The two railways have made statements of their views. I have not seen them, except as reported in the press, and I am sure they will be most illuminating when they are presented to us. Mr. Beatty has said that he would scrap so many miles of railway on both the Canadian National and the Canadian Pacific lines, if he were given control of the two systems. It may be that the Canadian National is in agreement with that view. Now, if we have the declaration from the two railways that some 5,000 miles of trackage can be abandoned—I think that was the figure I read—

Hon. Mr. LAIRD: Where did you see that statement?

Hon. Mr. DANDURAND: In excerpts from testimony that was reported in newspapers; I think I read it in the *Montreal Gazette*. At first it would seem that a lot of money can be saved since the two railways admit that thousands of miles of trackage are useless and can be dispensed with.

Right Hon. Mr. MEIGHEN: That is, under single control.

Hon. Mr. DANDURAND: Yes. But I surmise that when we ask Mr. Beatty if he still agrees with that, he will say only if both lines were placed under single control, but that otherwise he would not be in favour of his company making the same sacrifices. The question for us to consider is whether it will be possible to harmonize the sacrifices that it is necessary each road should make while each is being maintained as a separate entity. There would be no such difficult question

at all if both roads were merged into one. I drew the attention of the Senate the other day to the fact that while the Commission says you cannot have monopoly under private ownership or under public ownership, there is a middle road, namely that of maintaining private ownership and public ownership under co-operative management. There you have a small board to represent the general interests of the country, and you have the principle of private ownership—initiative and incitement for gain, and proper administration with a single eye to profits for the shareholders. I do not say that I am wedded to that proposal. I will ask the gentlemen who come before us as to the value of co-operative management. We have a telegram from Mr. Hungerford, who says "Keep the systems separate." But does he go to the length of saying "Join them under this Bill and force co-operation against the will of the one or the other"? I want to know what virtue there is in co-operative management. I cite Sir Robert Borden, who, in 1917, said, "I can see the salvation of these two systems in co-operative management." I have a high regard for the unanimous opinion of the Senate in 1925 on that principle. I simply mention the situation as I see it now. Perhaps we will be in a better position to come to a conclusion when we have heard the parties who are to appear before us.

Hon. Mr. GILLIS: If Mr. Beatty is prepared to scrap five thousand miles of railway in the event of amalgamation, could not the same thing be accomplished by co-operation between the two railroads?

Hon. Mr. DANDURAND: There you have the two systems facing each other, and the possibility of their saying one to the other "Will you make the sacrifice?" The question that we will have to put to these gentlemen will be: Suppose we take your suggestions as to the abandonment of lines, to which you have already agreed before the Commission, if there was joint operation how would the results for each system compare?

Hon. Mr. GREEN: I read Mr. Beattie's remarks before the Commission, and my recollection is that he said that under a single management the two roads could scrap five thousand miles of line, but that he did not see how, under separate management, they could scrap over 1,700.

Hon. Mr. McLENNAN: Would it not be possible for these trustees to establish co-operative management under this Act?

Right Hon. Mr. MEIGHEN: That is what the Act is for.

Hon. Mr. CALDER: That is the whole scheme. I confess that I cannot at all understand what is meant by co-operative management. How are they going to operate? The roads are to be kept separate and yet there is to be co-operative management. When the heads and the officials of the two roads get together and discuss matters, each side will say: In the interest of our road we must do so and so.

Hon. Mr. DANDURAND: There will be no such difficulty under co-operative management, because all the returns from passenger and freight traffic will go into the same pot. There would be a pooling of the receipts, and then a division would take place. If there were a surplus, I suppose it would be divided according to a certain principle. There would be a revaluation of the Canadian National, using the yardstick of the C.P.R. in order to put the two systems on the same level, and then the profits would be divided.

Hon. Mr. CALDER: That is different. It is not only co-operation so far as management is concerned, but all the proceeds go into one pool.

Hon. Mr. DANDURAND: While maintaining the two separate entities.

Hon. Mr. CALDER: So far as I am personally concerned I must express the view that the people of Canada will never agree to a union of the two great railways. I doubt very much if any power would ever be able to get through Parliament any measure having such an object in view. That is my opinion.

Hon. Mr. DANDURAND: Of course, competition would disappear under this system. I am not very much afraid of that bugaboo that the people would not agree. We should go to those who insist upon this luxury of competition and ask them to bear the deficits.

Hon. Mr. FORKE: I am quite agreed with Senator Calder that the people will not stand for the amalgamation of the two roads.

Hon. Mr. McLENNAN: Why?

Hon. Mr. FORKE: Co-operative management is the first step towards amalgamating the two roads. When we get co-operative management we will get one railway for the Dominion of Canada. I do not think we need take any such drastic step. I believe that this measure as we have it here, without a tribunal, is of no avail. We must have some body that will decide between the two railways. If one railway is to have a free hand to do as it likes, there will be no improvement. Suppose we say that the Canadian Pacific Railway has a charter to do certain things and that we have no right to interfere, we will have competition just as we have at the present time. Mr. Meighen, not intentionally, I suppose, referred to the ruinous competition of the Canadian National Railways. I could refer to the ruinous competition of the C.P.R. I think the two roads are pretty much in the same position. If the Canadian National is using the money of the people of Canada, the Canadian Pacific Railway is using the money of its stockholders. I think they stand in very much the same position. I do not see any reason why a tribunal such as that mentioned in this section should not bring the heads of the two railways together and have them talk over this matter in a business way. Surely they are reasonable people and want to do the right thing. I believe a tribunal of this kind will be very useful in bringing the Canadian National and the Canadian Pacific together.

At one time the people of this country were very hostile towards the Canadian Pacific, but I am happy to say that that feeling has passed away. I believe to-day the great majority want to see the Canadian Pacific get a fair deal. Let the Canadian National and the Canadian Pacific be put on an equal footing to supply the transportation needs of the Dominion as they best can. But I do believe it is absolutely necessary that some third party, such as the proposed tribunal, should come in to arrange any difficulties that may arise between the two companies with respect to competition or the scrapping of duplicating lines.

I have nothing but the most friendly feeling towards the Canadian Pacific Railway and I want it to be given fair play; but I want the Canadian National Railway to be given fair play also. Sometimes I suspect—may be my suspicions are entirely unwarranted—that many people believe the Canadian Pacific could handle the whole transportation situation much better than is possible under present conditions. But I think it would be detrimental to the public interest if anything happened to the Canadian National Railway system. Perhaps I should not have spoken as I have, but I believe my remarks possess at least this merit—they express the ideas of the common people.

Hon. Mr. BEAUBIEN: We have arrived, Mr. Chairman, at the parting of the ways. The Commissioners in their report state that joint management of the two railway systems would entail such intimate relations that it would be impossible later on to separate them. As Mr. Meighen has said, this is the most vital section of the Bill. It is no use to give pious advice to the railway executives. Therefore we must have legislation with teeth, or no legislation at all. Now, suppose we ask the C.P.R. whether they want legislation with teeth for the Canadian National, that is, legislation that will stop unreasonable and ruinous competition, what will be their answer? It is quite evident that the Canadian Pacific will say, "Yes, of course we want that. Otherwise we shall be ultimately

ruined beyond doubt, for the Canadian National is backed by the public treasury." Now, if it is true that we need legislation with teeth in it for the protection of the Canadian Pacific, the public will ask if it is not also necessary to have legislation with teeth in it for the protection of the Canadian National.

There is only one justification, Mr. Chairman, for interfering with the liberty and the property rights of any individual or corporation, and that is the public weal. No one is entitled to interfere with my property rights so long as I do nothing to injure other persons or their property. I have a gun at home and I can use it when I am hunting, but I cannot shoot it off in the street. Should legislation affecting the operating rights of the Canadian Pacific go any farther than to prevent that company from doing damage to the property of the other railway or from endangering the public weal? To my mind that is a question upon which we must concentrate with a great deal of attention. I am well aware that the object sought through this section is economy, and that it is in the interests of everyone that economy should be brought about. But I suggest that we shall not be able to decide whether this section does not go a little beyond what is just, practicable and useful, until we have heard the representatives of the Canadian Pacific Railway. If they show us that this section might be applied so as to restrict the use of their property rights, without any resultant benefit to the public, then it seems to me that an injustice would be done by the section. I have come to the conclusion that it is necessary to have an umpire who will decide what economies are to be made, in order that the Canadian Pacific will not fall into the hands of the state. If that happened, we should have twins on our hands instead of the present big baby. It will be for us to circumscribe very carefully the domain in which that powerful umpire can function, so that no injustice may be caused.

Hon. Mr. MURDOCK: Mr. Chairman, it seems to me that the domination, control or dictation, or whatever we may call it, that is now proposed for the railways, is nothing more than an additional degree of domination, control or dictation such as both railways, and particularly the Canadian Pacific, have been subjected to ever since the Board of Railway Commissioners was formed. In certain respects the operations of the Canadian Pacific are circumscribed to-day. Why? Because the public interest is paramount. This Bill says to both railways, in effect, "You are not going to be permitted to maintain any longer the rivalry that has existed in the past and that has resulted in the unnecessary expenditure of large sums of money that ultimately come out of the pockets of the people." When I refer to unnecessary expenditures I mean expenditures that are not necessary for the provision of proper transportation facilities in Canada. I cannot see the slightest justification for the creation of any hysteria with regard to domination, control or dictation, because all we are hoping to do is to suggest—or, if you will, dictate—that never again shall such unnecessary and unreasonable expenditures be made by our railways to finance rivalry between them. I know of instances where this rivalry has resulted in expenditures that I consider almost criminal. I can take you to the choicest location in the city of Boston, at the corner of Boylston and Tremont streets, that is being maintained by one of our railways and paid for by the people of Canada. A little lower down on Boylston street our other railway company is maintaining a similar place. What for? These companies are engaging in this expense simply in an attempt to compete with each other for traffic out of Boston. Contrast this with what is done by some of the largest American railway companies. I can take you to a building where a dozen lines—perhaps not one of them as large as either of our companies, but all very large companies—maintain a few rooms on the second or third floor for the purpose of supplying the same sort of service that our companies are supplying at so much greater expense. On Fifth avenue in New York there is to be seen another instance

of extravagance for which our people are paying. I could cite many other instances, for I have seen all of those places that are used by our companies on this continent. We are here to have regard for the rights, present and future, of the people of Canada. As my good friend Senator Beaubien, said a few moments ago, if care is not exercised we may find ourselves with railway twins in our arms, but there need be no danger of anything of that kind happening if the proposed additional domination, control, suggestion, dictation, or whatever it may be called, is provided for by law.

Hon. Mr. LAIRD: Mr. Chairman, I have been very much interested in the discussion and the frank expression of opinions. I think we are all learning something as we go along. It seems to me that the whole question resolves itself into this: Shall we have ordinary co-operation, or compulsory co-operation, between the two roads? By that I do not mean the separate operation of the roads by individual companies. During all these years we have had an experience of so-called co-operative management, under which the companies were supposed to have co-operated with a view to effecting economies. When times were prosperous the railroads paid very little attention to the suggestion that there should be co-operation between them with a view to economy, but as the situation became more acute the necessity of greater efficiency—that is of co-operation between the two companies with a view to economical management—was forced upon them not only by Parliament but by public opinion, and from time to time efforts, whether serious or not, were made towards that end. It has been announced at various times that the heads of the two roads have got together with a view to cutting out unnecessary services and effecting joint economies; but as long as competition lasted that did not amount to very much, as the ultimate figures show. The result of all this is that to-day we have two national companies. We call them the Canadian National Railways and the Canadian Pacific Railway. In my opinion the Canadian Pacific Railway is as much a national institution as the Canadian National Railways, because it is the people who pay in both cases.

Dire extremity has driven us to this legislation, which proposes that we should circumscribe the rights and powers of a company formed under the general law of Canada, a company which has raised its own money, started its own enterprise, and worked out its own salvation up to the present time. That is the position of the C.P.R. We know the position of the Canadian National Railways—enormous deficits from year to year that have to be paid out of taxation, and which have forced this legislation. The Canadian Pacific Railway is affected to such an extent that it actually has had to dip into the reserves to pay dividends, and as a matter of fact at the present time certain dividends are now being deferred in order that the company may ascertain whether it is in the red or the black.

So, while the Canadian National Railways are in bad shape, and are a burden upon the people, the Canadian Pacific Railway is in practically the same position, except that so far it has been able to pay its way. But if conditions continue as they are, and all indications point that way, the Canadian Pacific Railway is going to be in a position similar to that of the Canadian National Railways. It is all very well to look forward to the time when the stock of the Canadian Pacific Railway will return to former levels. It will be many years before that takes place, because while ostensibly the railway is paying its way, it is doing so at the expense of reserves, and they will not last forever. So, largely as a result of the riot of extravagance—I do not mean the useless throwing away of money, but extravagance in the way of providing service to the people of Canada, and for which the people now have to pay—we have two railways in practically the same position. Up to the present time we have tried the method of leaving the two railroads to come together and agree, but it has not proved effective. This legislation proposes to make co-operation compulsory, and under it there are two courses that can be taken.

It has been argued on behalf of the Canadian Pacific Railway that it would be unjust to call in by legislation a third party, an umpire, who, to some extent at all events, would have control over their private business. What are the facts? By legislation Parliament has subjected this company and the other company to very radical prescriptions—for instance, in the matter of the Crow's Nest Pass rates. At that time the Canadian Pacific Railway might have raised the same contention that is raised now, namely, What right have you to come in and tell us how we shall run our business? Whether or not we had any right to do so, we have done that in the past not only in the case of the Crow's Nest Pass rates, but in many other instances. The company has submitted to it, under protest of course, but it has found that it worked out not too badly in the end.

Now comes the question of whether we are doing an injustice in preserving to the company the railway field in Canada in order that it can carry on more successfully—in our opinion, at least—than it has in the past. You and I and the man on the street have done our mite to develop this country, and we have an interest in it. This is our country and we are not going to see it driven into bankruptcy on a point of ethics so far as a particular railway company is concerned, and I say that in order to save our country we can afford to go a very long way in protecting its interests, at the same time protecting the interests of the Canadian National Railways and of the Canadian Pacific Railway.

While these clauses appear on the face of them to be drastic, I do not see that they are going to do any injustice to the Canadian Pacific Railway. On the contrary, I think this legislation will be a good thing for it. Nobody can tell me that the wiping out of extravagance and the reduction of expenses is not going to be beneficial to the Canadian Pacific Railway as well as to the Canadian National Railways.

So, while we are all open to conviction, and ready to hear the representatives of the railway who will appear before us, speaking for myself, I am of the opinion that, the principle of co-operation between these roads having been tried and having failed, it is time to put into effect some drastic legislation or regulations in order to compel these two corporations to do what, up to the present time, they have been unable or unwilling to do. That is my present view.

The CHAIRMAN: Gentlemen, if we want the two railways to co-operate, can we do less than is prescribed by this Bill?

Some Hon. MEMBERS: No.

The CHAIRMAN: I ask the question again; if our object is to have them co-operate, can we do less than is outlined in this Bill?

Some Hon. MEMBERS: No.

Hon. Mr. CALDER: Will section 16 actually bring about co-operation? For instance, the C.N.R. says, "We want to co-operate right away," and the C.P.R. says: "All right, under the law we must co-operate right away," what machinery is provided for their getting together? All kinds of expenditures may take place. Must they throw all those into the pot of co-operation? Is everything provided for in the clause as now drafted?

Hon. Mr. GREEN: Where there is any conflict the tribunal acts.

Hon. Mr. CALDER: But if the C.P.R. desires to make expenditures for certain facilities or services, and the C.N.R. thinks those expenditures wasteful, how is the matter to get before the tribunal?

Right Hon. Mr. MEIGHEN: The machinery is provided in the Bill. There are to be no further unnecessary expenditures for merely competitive purposes, and where there is destructive competition it shall be the duty of both companies to devise means to get rid of it, and so forth. Then it is provided that

if either company is dissatisfied with the conduct of the other in attaining any specific objective, say to prevent the building of a competitive terminal in Montreal, it can present a petition to the Chairman of the Railway Board for the appointment of a tribunal to see to it that one terminal only is used. Is it in Senator Calder's mind that neither side may do anything?

Hon. Mr. CALDER: They may sit tight.

Right Hon. Mr. MEIGHEN: Well, if Parliament passes this Bill we appoint three Trustees, and it will be the plain duty of the Chairman to see to it that in any such case the objective is reached. True, it will also be the duty of the Canadian Pacific Management. Under the Act the Canadian Pacific will not be answerable to us in as effective a sense as will be the Canadian National; but in any case where the Chairman sees some action is being taken by the C.P.R. to retard the reaching of the objective sought, it will be his duty to say to the management, "I want you to make an arrangement, and if you do not I will go to a tribunal." If this Act passes I have no reason to think the Canadian Pacific will not feel it to be in its own interest to abide by the provisions, but in any event I think we may depend on the other road to take the necessary steps. I repeat, I have no reason to think the Canadian Pacific will not avail itself of the Act, but if it does not, certainly a lot can be done on the initiative of the Board of Trustees.

The Committee adjourned until Thursday, November 17, at 10.30 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 2

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESS

Mr. E. W. Beatty, K.C., President, Canadian Pacific Railway Company.

OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1932

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	L'Espérance
Barnard	Lewis
Beaubien	Lynch-Staunton
Béique	McArthur
Béland	Marcotte
Bourque	McDonald (<i>Shediac</i>)
Buchanan	McLennan
Bureau	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Daniel	Murphy
Dennis	Paradis
Donnelly	Pope
Forke	Rankin
Gillis	Raymond
Gordon	Robertson
Graham	Robinson
Green	Ross
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Laird	Turgeon
Lacasse	Webster.

[Quorum 9]

THE SENATE,

THURSDAY, November 17, 1932.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A. intituled "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 10.30 a.m.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: Gentlemen, at our suggestion Mr. Beatty, President of the Canadian Pacific Railway Company, is here to make a statement to the Committee. Before we hear him I may state that the Bill has been redrafted by counsel engaged for the Committee. The redraft is in typewritten form. It has been suggested that a small committee of four or five be appointed to go over this redraft and see if it is in form to be reprinted and submitted to the Committee. If that is your pleasure, gentlemen, this sub-committee will be appointed.

Some Hon. MEMBERS: Carried.

The CHAIRMAN: Mr. Meighen says there is no change in the general principle or object of the Bill. It has been redrafted in legal form to express more clearly the views of the Commission. After we have heard Mr. Beatty I would ask Senator Meighen and Senator Dandurand to get together and select the sub-committee, if this meets with your wishes.

Some Hon. MEMBERS: Yes.

The CHAIRMAN: Now, Mr. Beatty, we are ready to hear you.

Mr. E. W. BEATTY (President and Chairman of the Canadian Pacific Railway Company): Mr. Chairman, I have prepared in a rather condensed form a summary of the representations which we desire to put before the Committee. After making these representations, if you are willing, I shall be glad to elaborate any features which you may think should be elaborated.

I welcome the privilege of appearing before the Committee in response to the Chairman's invitation, because I am one of those who believe that the railway situation in Canada, present and future, constitutes by far the most important domestic problem with which the country is faced. I think I can claim some familiarity with the subject after thirty-one years in the service of the Canadian Pacific, during the last eighteen of which I have been intimately associated with the problem not only as it relates to the Canadian Pacific but to all other Canadian railways and their operations. I was frequently in conference with the late Lord Shaughnessy in 1921 when the railways of Canada were much discussed, and during the fourteen years I have been President of the company I have naturally been compelled to consider our own situation and also the conditions with which all companies have from time to time been confronted. I urged upon the Government the appointment of a commission to consider transportation matters in Canada and I did so, of course, without any idea as to how they would view the problem, but with the conviction that their work would add materially to a general knowledge of the subject throughout this country. I was hopeful, too, that the Commission would be able to evolve a solution which would reduce the railway burdens of the country and insure railway solvency.

The report of the Commission speaks for itself, and with a great deal of it most thinking Canadians will, I am sure, be in accord. With some of their conclusions I have not been able to agree, because my experience and long study of such matters lead me to a contrary conclusion.

It is probably not necessary that I should take up the time of the Committee with a history of Canadian railway achievements on the one hand or railway mistakes on the other. You are familiar with many of them, having yourselves in 1925 conducted an investigation into the question with great care and intelligence, and, so far as I could see, with a complete lack of political partizanship. I am inclined to think that neither Lord Shaughnessy's recommendations of 1921 nor the Senate Report of 1925 received the consideration at the hands of the public that either deserved.

During the course of the recent inquiry, the Commission heard the views of many railway executives and officers and of public men and representatives of public bodies. The fact that many of the hearings were held in camera induced a frankness of expression that would not otherwise have been possible, and now that the evidence has been made available to Parliament and the press, it will be appreciated that the witnesses spoke with the utmost candour. My submissions, as representing the Canadian Pacific, were made entirely from the standpoint of what I conceived to be the advantage to the country from both a financial and transportation standpoint. I, naturally, did not concern myself with possible political repercussions, of which I would not be a competent judge in any event, but which seemed to me to be of secondary importance to the reaching of a sound conclusion, which, if put into operation, would result in the disappearance of railway deficits, at the same time preserving railway efficiency. No one who has been close to the railways as long as I have could afford to approach the problem from the standpoint of self-interest, and I am innocent enough to believe that one can still be a fairly good Canadian and, at the same time, an officer of a privately owned company of national importance.

It is to put frankly before the members of the committee the position of this company in relation to the recommendations of the report now sought to be implemented by legislation that I appear to-day.

In considering the Bill in relation to the Canadian Pacific it is necessary to bear in mind certain facts in relation to the Company's origin and history. It was incorporated in 1881 for the purpose of implementing the undertaking of the Dominion toward the Province of British Columbia under the terms of Union in 1871. That undertaking was to provide a railway connecting the Pacific seaboard with the railway systems of Canada, to be completed within ten years from the date of Union. When that period elapsed only a small part of the work had been completed, and the Government found itself faced with great difficulties in continuing it as a Public Work. In this situation the Government resolved to entrust the enterprise to private interests. As a result, a bargain was entered into with a syndicate who were afterwards incorporated as the Canadian Pacific Railway Company under a Charter issued to it in 1881. The task which the Government had been unable or unwilling to carry out was thus assumed by the company under the terms of a contract. The company undertook to complete the line within ten years and actually completed it in five years. The contract was entered into for the purpose of giving effect to the terms of Union, and accordingly it provided in Section 7 that the railway constructed under its terms should, upon its completion, "become and be thereafter the absolute property of the company" and that the company should "thereafter and forever efficiently maintain, work and run the Canadian Pacific Railway."

To enable the company to carry out its obligations and obtain the resulting benefits, the company's charter, issued pursuant to the contract, conferred upon it special rights and privileges. It was provided in Section 4 that:

All the franchises and powers necessary or useful to the company to enable them to carry out, perform, enforce, use, and avail themselves of, every condition, stipulation, obligation, duty, right, remedy, privilege, and advantage agreed upon, contained or described in the said contract, are hereby conferred upon the company. And the enactment of special provisions hereinafter contained shall not be held to impair or derogate from the generality of the franchises and powers so hereby conferred upon them.

The obligation to maintain and efficiently operate the railway in perpetuity carried with as its corollary a continuance of the contract and charter provisions in its favour, including the right of administrative control of the undertaking. Provision was also made for freedom from control of rates until the company's profits should reach a certain standard, and for certain freedom from taxation. The company was empowered to acquire and operate certain then existing railways extending from its eastern terminus to the Atlantic seaboard, to lay out from time to time and construct and operate branch lines from any point or points along its main line to any point or points within the territory of the Dominion, and to acquire and operate steamships upon any navigable water which its railway might touch or connect with. It was quite clearly, therefore, conceived as a great national undertaking to provide for the transportation needs of the country both at home and abroad. All these, as well as other specific rights and privileges not immediately pertinent here, rest upon the contract between the Government and the company.

During the fifty years of its existence the company's undertaking has expanded with the growth of the country until its property investment now represents more than \$1,100,000,000, held by not less than 180,000 share and security holders, over 50,000 of whom are Canadians. Since 1902 the company has issued \$270,000,000 Ordinary Capital Stock at an average premium of 42 per cent, receiving therefor \$382,616,000 all without expense to the Dominion, direct or indirect. At that average price, a dividend of 5 per cent yields a return of only 3.53 per cent to the shareholders on their investment. It is my submission to your committee that the magnitude of their undertaking and its importance to the country entitle them to consideration in any legislative measure affecting their control of their property. They have provided Canada with a transportation service on land and sea that is unexcelled in the world, and there is no part of her settled territory and no phase of her commercial life and welfare that is not touched by the operations of the company and concerned in the continued success of its enterprise. As the Royal Commission has said, the company is Canada's largest taxpayer. Its tax bill during the last ten years averaged more than \$7,000,000 per annum, and since its incorporation it has paid upward of \$116,000,000 in taxes. During the last fifteen years it has contributed to the Federal exchequer the sum of \$25,500,000. As a citizen it has contributed its full share to institutions of a public nature for the advancement of social and commercial welfare. During the war it was able to advance or guarantee to the Empire cause more than \$100,000,000, and to furnish the means of transportation for approximately 1,000,000 soldiers and 4,000,000 tons of war supplies. Since its inception it has been the foremost agency in Canada in the work of colonization, immigration and the development of natural resources, expending for that purpose more than \$100,000,000—a sum greater than that expended by the Dominion Government on similar work over the same period. It has settled more than 30,000,000 acres of land in the Western Provinces, and has been the instrument of bringing millions of dollars of foreign capital to Canada for the development of its mines, timber and other resources, and for the establishment of new industries. Coming down to more recent years, during the period 1930-31 the company,

at the request of the Government, anticipated works of construction not immediately necessary and has spent \$15,800,000 with the approval of its directors and shareholders in works of this nature in order to improve unemployment conditions. The testimony of the Royal Commission in regard to the company is in the following language:—

25. As a result, the Canadian Pacific Railway company, the largest taxpayer in Canada, has been subjected to the competition of publicly-owned and operated railway lines, supported by the financial resources of the country. They had honourably discharged their original contractual obligations with Parliament, and the Company's lines had played a great part in binding together the western and eastern provinces of the Dominion. By common consent, the Company's administrators had brought faith, courage and invincible energy to the task of building its lines through the undeveloped west. The Company's achievement commanded the admiration of both railway operators and the public, and has been a material factor in causing Canada to be favourably known upon three continents. Their operations brought profit to shareholders, and the enterprise became a national asset of acknowledged value and importance to the Dominion.

Ten years ago the Government railways were consolidated and at once began an active and aggressive campaign of competition, the character of which is described in the Report. I will say nothing of this at the present time except to repeat what I have often said as to the unfairness to a private enterprise of competition at the hands of a rival backed by the credit and resources of the Government. What has been done cannot be undone, however, and the situation must be dealt with as it stands to-day. To alleviate that situation the Bill proposes that the Canadian National and the Canadian Pacific shall in the interests of economy adopt such co-operative measures, plans and arrangements as shall be best adapted to the removal of unnecessary, wasteful or uneconomical services, to the avoidance of duplication in services or facilities and to the joint use and operation of all such properties as may conveniently and without undue detriment to either party be so used, and to the meeting of competition in traffic in any form, and imposes upon their respective managements the duty of frequent meetings for the purpose of discussing, and, if possible, agreeing upon, these matters.

The Bill contemplates a change in the form of administration of the National Railways. The new appointees, designated trustees in the Bill, will take office under statutory direction to co-operate. That in itself will be a great incentive, and as it is equally binding upon the Canadian Pacific directors with their full agreement, the operations of the companies should be conducted in an entirely different atmosphere than that which has prevailed in the past.

So far as the Canadian Pacific is concerned we would accept a statutory direction that we should co-operate because we are willing to co-operate. We are satisfied that a fuller measure of co-operation will be secured from three causes first, the necessities of the situation, secondly, the statutory direction by Parliament that this should be a matter of policy by the private company, and thirdly, because of the creation of a board of trustees specially charged with the duty of carrying out the policy of Parliament in this respect.

I observe in some of the addresses delivered in the Senate upon the Bill that some phases of the measures were advocated or accepted in the belief apparently that there was no other alternative which would bring about the economies so sorely required. Quite obviously, there is only one way in which the maximum economies are obtainable and that is unification for the purposes of administration, whether for a limited number of years or for a long term. The Royal Commission has considered and rejected such a plan for reasons they have explained

in the Report, but there can be no doubt of its very great advantages from the point of view of economy and efficiency.

I am not an alarmist, nor am I a pessimist so far as Canada is concerned. I commend, however, to the committee the conclusions in the last paragraph of the Report of the Royal Commission as to the effect on the Dominion's finances and on the Company's position unless we take heed of the present grave situation and adopt drastic measures to correct it. I have already said that I regard the railway problem as the most vital domestic problem confronting the Canadian people. In spite of its importance, there is a great lack of understanding of what the real facts are, and in consequence there has been until recently very widespread apathy about it.

The Company has no major project in connection with its railway or subsidiary enterprises in contemplation, and, therefore, its financial requirements will be limited for some time to come to the payment of interest on its current obligations with a small amount per annum required for ordinary additions and improvements. Our credit which, happily, has been so strong in prior years and of such value to Canada, can only be maintained if the general situation is dealt with wisely even if drastically.

The Commission has found that the identity of each of the two railways shall be maintained, that there shall be the maximum of co-operation, but, at the same time, competition shall be maintained. It will tax the ingenuity of any board of trustees or board of directors to reconcile competition and co-operation. The best results under this hybrid form of administration can only be secured by the maximum of goodwill on the part of the administrators of the two properties, and more can be secured through friendly joint efforts than through a tribunal having the duties of arbitrators. The very fact that a higher authority exists will tend to relax these efforts by weakening responsibility. I urge this in the interest of both companies. And it is a peculiar commentary on the logic of the Commission's findings when we read that consolidation for the purpose of administration is rejected because it would put too great a power in the hands of a few men. This menace, in their judgment, is overcome by putting it into the hands of one man.

Against the principle of compulsory arbitration embodied in part III of the Bill the Company must enter its most vigorous protest. An examination of the subjects enumerated in Section 19 will show that the jurisdiction of the Arbitral Tribunals embraces matters of so great importance as to amount to virtual control in all major branches of its undertaking. Take alone the subjects of joint terminals and the pooling of traffic. The former are the nerve centres of railway operations, and the latter involve the whole benefits received from such operations. It is to be open to either party to propose measures involving these vital matters, and, if agreement is not reached, both the principle of the proposal and the terms on which it is to be carried out are to be left to arbitration. It will be noted that every one of the subjects involves questions of policy, questions of administration, and, underlying both of these, questions of finance, and, for that reason, they are in my submission, not fit and proper to be determined by arbitration. The Company welcomes the suggestion of voluntary agreement as to such matters. They are quite properly the subject of voluntary co-operation, but the company is startled by the suggestion that they may be forced upon it by an authority not responsible to its shareholders. Control by a tribunal constituted as proposed should not be imposed upon any privately owned railway company operating in competition with the Government railways.

The sweeping character of the arbitration feature of the Bill is shown by the provisions of Section 17, which declares that it is to extend to all disputes between the two companies. Probably this expression was intended as incidental to the measures of co-operation enumerated in Section 19, but, in any case, it opens up a very wide field of jurisdiction.

As to the Arbitral Tribunals, it will be observed that whether they consist of three or five members, the Canadian Pacific is in every case to have a voice in the appointment of only one member of the Board. In the last analysis therefore, the Company will be completely divested of control of its property in favour of an outside authority. I cannot too strongly urge upon you the serious nature of this feature of the Bill, as well from the standpoint of public policy as of the rights and interests of the shareholders of the Canadian Pacific.

To control of its undertaking as provided by the existing statutory law, the Company takes no exception. Regulations through the Board of Railway Commissioners and the control of rates, facilities and services in the interest of the public is a proper subject of legislation, but Part III of the proposed Bill is a very different matter.

If it be the view of Parliament that co-operation shall be controlled and directed by another and independent tribunal, whose decisions shall be final and binding on the Canadian Pacific, then I would suggest, for your consideration, that the Government of Canada and the Canadian Pacific should enter into an agreement for a period of years by which the Company would agree to this form of administration upon receiving protection to the holders of its securities and shares; that consideration being given because of the relinquishment of the control of their own property during the term of such agreement.

Now, gentlemen, when the announcement was made by the Government in consequence of the filing of the Duff Report, so-called, that legislation would be introduced at this session of Parliament, the directors of the company at many meetings canvassed the whole situation from the standpoint of the interests of the company and of the shareholders, and in consequence of these meetings I was, on October 24, directed to submit a short communication to the Prime Minister outlining the company's position in respect of this proposed measure. The substance of what I have to give you is contained in this letter, and with your permission I should like to read it in order that it may become a part of your record. It has simply been received by the Government, and I may say that no action has as yet been taken.

CANADIAN PACIFIC RAILWAY COMPANY,
MONTREAL, October 24, 1932.

SIR,—The announcement in the Speech from the Throne at the opening of the present session of Parliament that a Bill will be introduced by the Government to give effect to the recommendations of the Royal Commission on Railways and Transportation, compels the company to state its position in relation to some of the features of the report.

It is to be borne in mind in considering the present railway situation that the company was organized more than fifty years ago for the purpose of carrying out one of the terms of Confederation, and that under its charter and subsequent Acts of Parliament it was vested with special rights and privileges in consideration of the obligation which it assumed under its contract with the Dominion for the construction of the Canadian Pacific Railway and its operation in perpetuity. That it has fully carried out its part of the contract the Commission has testified in the following language:—

25. As a result, the Canadian Pacific Railway Company, the largest taxpayer in Canada, has been subjected to the competition of publicly-owned and operated railway lines, supported by the financial resources of the country. They had honourably discharged their original contractual obligations with Parliament, and the company's lines had played a great part in binding together the western

and eastern provinces of the Dominion. By common consent, the company's administrators had brought faith, courage and invincible energy to the task of building its lines through the undeveloped west. The company's achievement commanded the admiration of both railway operators and the public, and has been a material factor in causing Canada to be favourably known upon three continents. Their operations brought profit to shareholders, and the enterprise became a national asset of acknowledged value and importance to the Dominion.

In equally full measure the company is entitled to the continued free exercise of all the rights and powers on which the obligation of constructing and perpetually maintaining and operating the railway was conditioned. In the exercise and enjoyment of these rights and powers it has steadily pursued a policy of expansion to keep pace with increase of the trade and commerce of the country, both at home and abroad until its undertaking represents an investment of more than eleven hundred million dollars. In justice to itself the Canadian Pacific could not abandon the rights which Parliament had conferred on it, and it was compelled often to accelerate its plans of expansion to prevent their complete frustration.

The course pursued by the Canadian National is described by the Commission in the following language:—

33. Running through its administrative practices, however, has been the red thread of extravagance. The disciplinary check upon undue expenditure, inherent in private corporations because of their limited financial resources, has not been in evidence. Requisitions of the management have been endorsed by governments, and successive parliaments have voted money freely, if not lavishly.

34. Within the railway organization there has been freedom in expenditure and encouragement in plans for expansion and extension of services which were inconsistent with prudent administrative practice. The administration failed to realize that this country, with the greatest railway mileage in the world in relation to population, could not afford further capital and maintenance expenditures for unwarranted branch lines, for de luxe services, for unrequired hotels, for the building of ships in competitive service to be shortly abandoned; and, generally, for costly adventures in competitive railways out of proportion to the needs of the country.

35. There has been in the country a general sense of expectancy that the publicly-owned enterprise should give all and sundry the railway service desired, and there is no evidence that the representatives of the people in parliament exercised any appreciable restraint upon railway estimates placed before them.

Confronted with this situation the Canadian Pacific was compelled to choose between meeting the competition, or, accepting a secondary position, face a gradual decline from the encroachments of its rival. The decision was to trust to the good sense and fairness of the Canadian people, and, without resort to provocative measures, to maintain as far as possible its business and good-will against invasion.

The course pursued by the Canadian Pacific was defensive and not aggressive, and throughout the period it used every effort to discourage and limit unnecessary expenditure for competitive purposes.

The report makes mention of branch line construction and expenditure on hotels. In the policy of the company in these matters, com-

petitive considerations had only a minor part. The chief factors were the interruption of railway construction during the War, and the rapid extension of settlement, particularly in the western provinces, which followed it. In Saskatchewan and Alberta alone the area under wheat increased from 6,993,000 acres in 1914 to 21,490,000 acres in 1930. Industrial and commercial enterprises also entered new fields, and for all these, railway service was necessary. These settlements and industries owed their existence in a very large measure to the colonization and development work of the company, and it was but natural that it should look forward to a share of the traffic which they might yield. As has been said, the orderly progress of its program was affected by the action of the rival system, but the future of the company could not have been protected if it had refrained from following the march of settlement. The traffic returns of the new lines up to 1930 fully justified their construction, and the falling returns of subsequent years have been no more characteristic of the new lines than of other parts of the railway.

In hotel construction the company followed a policy adopted early in its history. The prime object of the hotels was to promote passenger traffic on rail and steamship lines. This they have accomplished, and in so doing have played no unimportant part in bringing Canada to the favourable attention of the world. The inevitable effects of the passage of time, and the demands of a more exacting clientele during a period of prosperity, made necessary the reconstruction and enlargement of structures already in existence. That work, and the replacement of buildings which had been damaged or destroyed by fire, absorbed a very large part of the expenditures made during the period. In no case did the company engage in an hotel enterprise in a city already provided with adequate hotel facilities, and, while a considerable outlay has been made, it is to be noted that in every year of the period the hotels showed an operating profit, and their indirect contribution to passenger traffic revenue has been great.

With the recommendation that there shall be co-operation between the companies to the avoidance of unnecessary expense, and frequent and regular conferences and discussions for that purpose between their respective managements, the Canadian Pacific is in entire accord. It is believed that these conferences and discussions should be productive of great benefit, and the company will heartily co-operate in any measures designed to mutual economies. It cannot, however, endorse the scheme of compulsory arbitration of administrative problems outlined in the Report.

The subjects to which it is proposed that compulsion shall extend embrace, in their entirety, matters of so great importance to its operations as to amount to virtual administrative control of both undertakings, and this is to be done by the authority of an Arbitral Tribunal on which there will in every case be but one member in whose appointment the Canadian Pacific has any voice. It is proposed to take away from the owners of the Canadian Pacific the power of deciding what is in their own interest, and vesting it in persons over whom they have no control. The company cannot allow this to become law without protest. It is regarded as an invasion of its rights secured by its charter and by its fifty years of public service.

It is therefore urged that effect should not be given to this compulsory feature of the Commission's recommendations. That the present law may be amended with a view to promoting co-operation between the Canadian National and the Canadian Pacific, with advantage to

both, is unquestionable, but the form and nature of such legislation can best be determined after conferences between representatives of the Canadian Pacific and those who are to be responsible for the future management of the Government System.

If against the company's protest this feature of the recommendations of the Commission is nevertheless to be incorporated in the Bill, every consideration of justice to a private enterprise requires that some safeguard should be provided against injury to the interests of the Canadian Pacific and we beg you to consider the inclusion in the Bill of provisions designed to protect the company and its shareholders.

I have the honour to be, sir,

Your obedient servant,

E. W. BEATTY,

Chairman and President.

By Order of the Board of Directors.

The Rt. Hon. R. B. BENNETT, P.C., L.L.B., K.C.,
Prime Minister.
Ottawa, Ont.

With the permission of the Committee, I should like to give you the results of my experience in the matter of co-operative efforts by the railways, and also the views which we hold as to the most effective ways of bringing about economy through co-operation, which everybody is in favour of.

During the last ten years of a rather seriously competitive condition existing in Canada, every move made by railway administrators in the way of extending services, new construction, and de luxe equipment, was welcomed by the public as an act of vision and courage and confidence in Canada. We were urged to compete, and to compete strongly, and I imagine that that urge was directed a little more emphatically to the National Railways than even it was to ourselves. When the depression struck us it became perfectly obvious to everybody that those extravagances in the way of unnecessary services could not be continued if solvency was to be maintained. So as early as 1929 the Canadian Pacific embarked upon a fairly serious system of retrenchment and economy, which has continued up to the present time.

I think the depression has taught the railway managements a great deal that they would have otherwise been slow to learn. The reason why we have effected economies by co-operation, without any impulse from anybody else but ourselves and the necessities of the situation, and the reason why I am in favour of the co-operative method outlined in Part II of the Bill—which Senator Meighen has correctly described as the crux of the whole measure—is this: We all know that the natural benefits of co-operation can only be attained through the spirit of the men who are co-operating. The threat of the work of an Arbitral Tribunal is not, to my mind, an important consideration in the matter of co-operation. We are in a new era, an era of economy which will extend, I think, for several years. We have accepted the principle of co-operation, and your statutory direction to the Canadian Pacific is fully binding upon us with our consent. You are proposing a change in the organization of the Canadian National, and you will have three Trustees with very wide powers in charge of the affairs of that company. Now, those three men, I presume, will be selected for their character and ability and their knowledge of large business problems, and if the specification of their attainments set out in the report is carried into the Bill finally, they should be men of exceptional ability. They take office under a change in the law of Canada which directs them and us to co-operate. That is a direction to them under which, and only under which,

they can function. With the type of men that the Government will undoubtedly select, and with that direction, I think we shall have an entirely different foundation for co-operative measures from anything that we have ever had in Canada prior to this. I take it that the directors or representatives of the Canadian Pacific Railway, appointed under this statute to confer, will be imbued with exactly the same idea as those trustees, and that great progress will be made in co-operative economies through the action of these two bodies. I do not believe that the placing over them of an arbitral tribunal, with arbitrary powers to decide disputes, is going to add very materially to the benefits accruing from the system described under Part II of the Bill. In fact, while it invites us to co-operate it also invites us to fight for our rights as we conceive them.

But the serious feature of the tribunal, from our standpoint, is the passing from our directors and shareholders of control of our operations and the settlement of major questions of policy, leaving with us the financial responsibility for everything that happens. There is no way that I can conceive of, under the Bill as now drafted, by which we can avoid the financial consequences and responsibility for carrying out any decision of the arbitral tribunal. That, I think, is distinctly unfair.

I am a believer in your co-operative plan, as defined in Part II. But I do earnestly believe that the omission of Part III will be an advantage rather than a detriment. I think you will be surprised at the results obtained through the changes in the policy of Parliament as expressed in this Bill, which changes will be made binding on the two companies. The companies are not indifferent to the situation or the necessities of it, in the slightest degree. I think both companies have completed their major work of expansion for some time to come. They can therefore properly devote all their time and attention to putting their own houses in order by this method, in order that if possible we shall stand the strain of the remaining period of this depression.

I cannot, even if I should, comment on the individual clauses of the Bill, because I understand they are in process of change; but when the time comes I should like to make some representations as to the wording of some clauses, if they are retained in their present form, because they are, in my judgment, inapt.

The CHAIRMAN: Mr. Beatty's remarks have been very illuminating, interesting and useful. I am sure that he will be glad to answer any questions pertinent to his remarks, to the Bill, or the report.

Hon. Mr. CALDER: Mr. Beatty, can you give us briefly some idea as to the scope and character of the matters upon which you have co-operated during the past five years?

Mr. BEATTY: I made a statement on that to the Royal Commission, Senator. I have not got all the details with me here but I can get them for you. They involve joint section agreements covering, I think, several hundred miles of branch lines between the two companies, joint terminal facilities agreements, a very important agreement negotiated with the National as to the steamship services and the use of their agents for our business and the exchange of traffic at Halifax between our boats and their railways. They were mostly of a character that come up from day to day in railway discussions, and in a great many cases we were able to conclude agreements. I might say in that connection that as far as the Canadian Pacific is concerned we would be perfectly willing to-day to sit in with the National Railways, because we have a list of things that we think should be done by agreement between us; but I have been fearful of approaching them lest they might say to me that their organization was in process of re-adjustment and they did not feel that they could go into these very important matters when another character of organization was to be provided for them. But we are ready now with a long list of questions which we would like to discuss and settle, if possible, with them, involving joint action.

Hon. Mr. CALDER: For how many years have you been co-operating?

Mr. BEATTY: We have been co-operating off and on. In 1924, which you will remember was not a particularly good railway year, we had a great many discussions as to co-operative measures and we did put some of them into effect. But the urge of competition was very great, and the pressure to compete was equally great, and both companies in a measure met that demand. Of course, we have learned, what has been learned in every country in the world, that we can pay and have paid too high a price for competition. The fear of monopoly—and monopoly is a sinister word in the minds of many people—has been very prevalent in Canada, but the people who have that fear apparently overlook the fact that in the very nature of things there cannot be transportation monopoly in Canada now. For years we have been operating with waterways on one side of us and highways on the other, with aeroplanes in the offing. There is no chance at all of a transportation monopoly, and that is one reason why I believe that a railway consolidation for the purpose of administration only, not a physical amalgamation, is the logical solution of our problem. That view is not only mine but is held in the United States and other places, where the urge towards consolidation as a method of economy is going on all the time and is being made effective.

The CHAIRMAN: Mr. Beatty, you have taken exception to the clause about the tribunal. If this Bill should not become law before the forthcoming adjournment of Parliament, do you think that during the intervening months before we get well into the latter part of the session the results of co-operation between the railways would be such as to strengthen your argument against this section to which you object?

Mr. BEATTY: Yes sir, especially if an intimation were given that part II of the Bill would be included in some legislation at some time.

Hon. Mr. DANDURAND: Mr. Beatty, in your statement before the Royal Commission you said that the two railway systems could make a saving of \$64,267,000 mainly through the abandonment of some 5,000 miles of railway. But you added that that could only be contemplated under unification.

Mr. BEATTY: Yes sir.

Hon. Mr. DANDURAND: I think you also stated that the abandonment of these 5,000 miles would be in the proportion of 66 per cent by the Canadian National and 34 per cent by the Canadian Pacific?

Mr. BEATTY: Not quite, but approximately so. The figures were respectively 65 per cent and 34 per cent, with one per cent owned jointly.

Hon. Mr. DANDURAND: Now, I should like to put this question. Would 5,000 miles of railway abandonment constitute the main part of the savings? Could the Canadian Pacific under this Bill, or this part of the Bill, effect for its own advantage that proportion of savings, and could the Canadian National also effect its proportion of the savings and each retain its own entity?

Mr. BEATTY: No, sir, because the merit of that suggestion and the reason for its effectiveness would be only because the two companies have a common pot, as it were, a common treasury, and joint use of each other's facilities throughout the country.

Hon. Mr. CALDER: In suggesting the abandonment of line what provision, if any, was made to serve the towns and villages and others affected?

Mr. BEATTY: No provision was made, because the lines to be abandoned in the majority of cases were lines that did not serve any particular community. They were stretches intermediary to terminals. But it was expected that wherever there was, for example, an elevator or anything else, it would be taken care of by being moved to the nearest point on the railway.

One of the suggestions that we made ourselves was to abandon our main line from Kamloops to Petain.

An Hon. SENATOR: Where is that?

Mr. BEATTY: That is near Ruby Creek, about seventy-nine miles from Vancouver. We have probably one of the finest pieces of railway in existence, physically speaking, but it has adverse grades. The National Railways have a water grade, and we suggested that we use their line. That would mean putting their line in the same physical condition that ours is in now, and we suggested that they should join with us at Petain and use our line, including the double track, from Ruby Creek into Vancouver.

Hon. Mr. CALDER: What would you say to having Parliament adopt the principle of compulsory arbitration, to be brought into effect only by the Governor in Council? In other words, to carry out your suggestion and carry on co-operation without the arbitrary tribunal, but if co-operation were to fall down to bring in the third part of the Bill. I do not ask you to answer that.

Mr. BEATTY: That, of course, is always a possibility. The suggestion was made, I think from some outside source, the other day, that you should stop the operation of Part 2 of this statute. Of course we would know that the results of our co-operative efforts under Part 2 would depend on whether the Government would make this compulsory.

Hon. Mr. DANDURAND: Mr. Beatty, I would like you to give us a little more light on the difficulty of reaching the full economies you have mentioned through the abandonment of 5,000 miles of railway. May I suggest, first, that the officials of both companies have agreed that these economies are desirable.

Mr. BEATTY: Yes, but the officials of the two companies are not at one as to the extent or the nature of the economies or the results which will accrue. The difference between economies in consolidation and administration and economies if you leave the railways to operate as separate entities lies in the fact that in the latter case you have to preserve to the company its own lines. You cannot take them up or abandon them, but in the case of consolidation you substitute one line for another.

Hon. Mr. DANDURAND: But in the main the economies effected would bring about a greater number of arrangements for running rights between the two railways?

Mr. BEATTY: Yes, sir.

Hon. Mr. DANDURAND: Now, suppose this Bill passes as it is, the two companies having laid before the Royal Commission their scheme of economy by the abandonment of lines and running rights, which you suggest as being necessary to effect the economies, the arbitral board would impose upon you the acceptance of the economies suggested by both systems thus bringing about the abandonment of some 5,000 miles of useless railway. Since the C.P.R. admits that the abandonment of lines would bring about the necessary economies to the C.P.R. and to the Canadian National Railways, what effect would it have on the C.P.R.? How would it affect the whole working of the Canadian Pacific Railway Company if, by force of arbitration, while maintaining the two entities, the board declared that the economies suggested by the two railways must be effected?

Mr. BEATTY: If the two railways suggest an economy through the abandonment of line or through joint sections, there is nothing gained. They can do that to-day. That is my theory about this co-operative effort. We will do that to the extent that we think we can in justice to the security holders and shareholders on the one hand and to the people of Canada on the other.

Hon. Mr. DANDURAND: But you have stated that in maintaining the identity of the two systems you did not see how the abandonment could exceed 1,740 miles.

Mr. BEATTY: That is true.

Hon. Mr. DANDURAND: Not 5,000 miles?

Mr. BEATTY: Yes.

Hon. Mr. DANDURAND: Would you allow me to ask why only 1,740 miles could be scrapped in one case, while under unification or joint management 5,000 miles could be abandoned?

Mr. BEATTY: With consolidation all the lines of the two companies come under one administration, and we can use or not use any part of either system for the common good of the whole. When we have co-operation and have to maintain our corporate entities, and also, as far as possible, the rights of the security holders and shareholders in a property which has been paid for by their money, we cannot tear up as much as we could if we got something substituted for it through consolidation.

Hon. Mr. FORKE: Even if you had consolidation, could that economy be effective without affecting the public service?

Mr. BEATTY: Yes, sir. We would attempt the abandonment only of those lines for which there were substitutes already in existence.

Hon. Mr. ROBINSON: How would the 1,700 miles be divided?

Mr. BEATTY: 900 odd National; 600 odd C.P.R. and a short mileage now jointly owned.

Hon. Mr. LYNCH-STAUNTON: You seem to ridicule the idea that competition and co-operation can mutually exist. From what you said you seemed to think they were mutually destructive. Are you of the opinion that co-operation and competition cannot co-exist, and further, is there any necessity for competition? By competition I mean endeavouring to cut each other out of business. Then do you regard the powers given to this Board of Arbitration as involving the right to compel your company to make expenditures which it would be unwilling to make, or do you regard the Board of Arbitration as having authority only to veto expenditures?

Mr. BEATTY: My answer is this, senator. As to co-operation and competition it is pretty difficult to fight and kiss at the same time—unless you are married; and that is consolidation.

Hon. Mr. BEIQUE: The experience of a bachelor!

The CHAIRMAN: I think we shall have to ask the president to confine his remarks to subjects about which he has some knowledge.

Mr. BEATTY: The difficulty is this: Competition is the most difficult thing to control once it is competition. You have thousands of employees in both railroads knowing they are competing. They are trained to compete, their instinct is to compete, to protect their own property as they see it. You have the atmosphere of war immediately you have competition. It is this spirit of warfare, if the atmosphere in favour of competition has been very intense as it had been in Canada in the last eight or nine years. So you cannot expect to get the full results of co-operation while at the same time you say, "You must compete." That, I think, is obvious. Your second question was what, sir?

Hon. Mr. LYNCH-STAUNTON: Whether you regard the powers of this Board of Arbitration to involve the right to compel you to make expenditures which you consider unwise, or do you regard their authority as power only to veto expenditures which they figure to be unwise?

Mr. BEATTY: They have a limited power, as I understand the measure, to compel us to make expenditures which we might think were unwise; but the biggest part of their power is to compel us not to do things which we think are wise, and for which we take the risk of loss or otherwise.

Hon. Mr. LYNCH-STANTON: Which do you complain of most, their power to compel you to make expenditures, or to stop you making expenditures?

Mr. BEATTY: I object to the administrative control, whatever it involves. My principal objection is that no matter what happens, senator, we must carry the bag and be responsible for the financial consequences. Even though it is against our judgment, against, in our view, the interests of our shareholders, of our property shareholders and our security holders, we still must be responsible for any financial consequences.

Hon. Mr. LYNCH-STANTON: If they had any right to control you in that, it would be only where it would affect the Canadian National Railways.

Mr. BEATTY: That would probably be the main thing, because we are already under the jurisdiction of the Railway Commission.

Hon. Mr. LYNCH-STANTON: If we abandon competition, why should you object?

Mr. BEATTY: We do not abandon competition. We have got to maintain the identities of the two railways, we have to operate them under separate administrations to protect the interests of the respective owners.

Hon. Mr. LYNCH-STANTON: The two respective owners can pool rather than compete.

Mr. BEATTY: But they are competing just the same. You cannot pool everything unless you are together.

Hon. Mr. LYNCH-STANTON: Competition may have two different meanings; it may be competition which would not injure each company.

Mr. BEATTY: All competition involves a struggle for traffic.

Hon. Mr. LYNCH-STANTON: You cannot avoid competition when you are seeking an advantage.

Mr. BEATTY: You cannot.

Hon. Mr. DANDURAND: As separate systems, Mr. Beatty, you can agree to pool your passenger earnings.

Mr. BEATTY: We can with the consent of the Railway Board.

Hon. Mr. DANDURAND: Would that be on special lines only or on the whole system?

Mr. BEATTY: It would be on special lines, I should think; but it could be broadened to include general pooling. That, of course, is covered by your Bill.

Hon. Mr. LYNCH-STANTON: What vanity is there in your objection against the control of expenditures?

Mr. BEATTY: It is not a matter of vanity; we think it is a matter of right.

Hon. Mr. LYNCH STANTON: What injury might come to the railroad?

Mr. BEATTY: We do not know. You are asking us to take all the chances of injury.

Hon. Mr. DANDURAND: I understand, Mr. Beatty, that pooling passenger earnings is not a very easy matter.

Mr. BEATTY: No.

Hon. Mr. DANDURAND: Because if you try to pool passenger service between Montreal and Toronto, we will say, then it may affect the earnings of your company because the passengers go beyond Toronto; likewise with respect to pooling of passenger traffic between Montreal and Ottawa?

Mr. BEATTY: The ramifications of pooling affecting passenger and freight earnings are very, very widespread.

Hon. Mr. DANDURAND: So there is more likelihood of a general pooling of all passenger services than of a local pooling.

Mr. BEATTY: There is a great deal more to be gained by general pooling than by individual pooling.

Hon. Mr. LYNCH-STAUNTON: The consolidation that you speak of in the United States does not involve the destruction of any entity, does it?

Mr. BEATTY: Not as a physical entity.

Hon. Mr. LYNCH-STAUNTON: I mean as a corporate entity?

Mr. BEATTY: It means a merger.

Hon. Mr. LYNCH-STAUNTON: They are going along those lines, are they?

Mr. BEATTY: Yes.

Hon. Mr. LYNCH-STAUNTON: Mr. Beatty, under the present law could both railways co-operate to the extent necessary to make the required retrenchment?

Mr. BEATTY: In some respects, yes, sir, we could; in other respects we could not without the authority of the Railway Board. The virtue of this law—Part II I am thinking of now—is that it gives us not only a legal right to do all these things, but a statutory direction to do them. Therefore it becomes, or should become, part of the policy of both railways. But even that, senator, would be ineffective, in my judgment, unless the co-operative instinct in the Canadian National Railway Trustees and in our own representatives was very highly developed. That is what I put more reliance on than on anything in the measure itself.

Hon. Mr. BEAUBIEN: If you had that state of mind, would you absolutely require to modify the law to make retrenchment that is necessary now?

Mr. BEATTY: The law would help us to do the very things we should do by directing us to do them.

Hon. Mr. BEAUBIEN: But your interest does not direct you to do it.

Mr. BEATTY: Undoubtedly.

Hon. Mr. BEAUBIEN: What else do you want?

Mr. BEATTY: Senator, you must remember that we are emerging from eight or nine or ten years of this intensive competition. We want help to bring this about, and we think Parliament can give it to us by simply saying, "It must be part of the policy of both companies to co-operate in the interest of economy and for the other reasons given in the Bill."

Hon. Mr. FORKE: That is the suggestion to both companies?

Mr. BEATTY: It is a direction.

Hon. Mr. FORKE: How do you enforce co-operation, supposing the Trustees of the Canadian National and the Directors of the Canadian Pacific do not co-operate?

Mr. BEATTY: The Arbitral Tribunal is no doubt intended for that. We will keep away from that Tribunal.

The CHAIRMAN: Neither will make any application to it?

Mr. BEATTY: No. I think. Senator Forke, the advantage of the Arbitral Tribunal is that it is really an invitation to the two railroads to test before the Tribunal the merits and demerits of the claims of either company. I think we can go further so far as we are concerned, especially in view of the change in the organization of the Canadian National Railway, which would impose on the

Trustees, even if they are not super men, but the ordinary good type of Canadian business men, the obligation to do things which we say now we are willing to do.

Hon. Mr. DANDURAND: I understand, Mr. Beatty, that quite a number of branches are losing money ten months of the year.

Mr. BEATTY: Not in normal years, no. As a matter of fact, senator, you may recall that I stated in the memorial submitted to the Government that our branch line construction had shown results that were very favourable, compared with other parts.

Hon. Mr. FORKE: I am glad to hear Mr. Beatty say that, because there has been some misunderstanding in connection with it.

Hon. Mr. GREEN: Mr. Beatty, referring to your proposition that there should be joint use of the road from Kamloops to Pétain, on one line, and from Pétain to Vancouver, on the other line, I should like to know how far that would go. Would it necessitate the joint use of the terminal?

Mr. BEATTY: I should hope so.

Hon. Mr. GREEN: Of one terminal?

Mr. BEATTY: I should hope so.

Hon. Mr. GREEN: Physical conditions, I suppose, would make that necessary?

Mr. BEATTY: Yes.

Hon. Mr. WEBSTER: If you had equal representation on that tribunal, would that modify your view?

Mr. BEATTY: There could not be equal representation, because there would have to be a third man.

Hon. Mr. WEBSTER: I understand that, but the other two members of the tribunal would be chosen by the two railway companies.

Mr. BEATTY: If we go that far I think I can suggest a good method of choosing the representatives.

The CHAIRMAN: Mr. Beatty, what do you think about the suggestion that a judge be appointed to the tribunal? Would the appointment of a judge answer every objection?

Mr. BEATTY: Oh, no.

The CHAIRMAN: I do not wish to be disrespectful at all, but my own opinion is that that would not be the kind of tribunal to which I would apply for a business man's decision. Now may I ask another question. You suggest that there should be an amalgamation—if I may use that word—of management for a term of years, short or long. Now, regardless of how long or short that term happened to be, would it not actually result in an absolute merger for all time?

Mr. BEATTY: That might be.

The CHAIRMAN: Suppose the railways were operated under an amalgamation for ten years, would it not be impossible, from an operating standpoint, to unscramble them after that period?

Mr. BEATTY: The experience we would gain in the term of years would determine whether that would be a right thing to consider or not. That is the virtue of the suggestion.

The CHAIRMAN: But in your judgment if that co-operation and joint management were put into effect for a term of years, do you think that the public would be so thoroughly satisfied that they would never want to go back to the old system?

Mr. BEATTY: I think the public and the exchequer would. I do not want to try to interpret what was in the Commission's mind, Senator Graham, but I can see that when they dealt with the question of consolidation for administration only—and that was the only form of consolidation that was discussed—they felt difficulty in projecting themselves into the railway conditions that might prevail in Canada twenty-five or thirty years from now and in saying that the proper solution for to-day would be the proper one for the whole of that period. Therefore they gave greater consideration to the shorter term than to the distant future.

The CHAIRMAN: It seemed to me that if the new arrangements were made and new methods of operation were put into effect, and if some 5,000 miles were abandoned, it would be almost impossible to go back to the former conditions even if it were desired to do so.

Mr. BEATTY: No, not impossible, if it were thought necessary to return to former conditions. But if the joint management were carried on for ten or fifteen years, certain permanent arrangements would be made with respect to joint use of tracks, terminals, and things of that kind. The lack of arrangements of this kind has accentuated the duplication that has existed in Canada all these years.

Hon. Mr. DANDURAND: I understand that ten years would be the shortest term in which joint management could be given a fair trial, because it would require five years to put the whole program of consolidation into effect.

Mr. BEATTY: In order that there might be no injustice it would be necessary to have the joint management extend over a period of at least ten years, and that would probably be too short a term to give the thing a proper trial.

Hon. Mr. COPP: You made some reference to pooling of traffic. Did I understand you to say that there is some pooling of traffic now?

Mr. BEATTY: No, not pooling. There are only two places in North America where there are pooling arrangements in effect. But we have proposals for pooling ready for consideration by the National Railways, if they think they are in a position to consider them in view of the changes that are being contemplated here.

Hon. Mr. LEMIEUX: With respect to the proposed abandonment of some lines, what will be the underlying principle to guide both roads?

Mr. BEATTY: In the first place, necessity; and, secondly, the question whether we can get a facility for ourselves equally as good as the one we are giving up.

Hon. Mr. LEMIEUX: Would the density of population and the remoteness of a district be factors? In other words, would the policy be to ignore the smaller districts and concentrate upon the larger ones?

Mr. BEATTY: Non-competitive territory, of course, must stand upon its own feet. In territory of that kind the lines will be maintained if there is sufficient traffic to justify them. In competitive territory no line would be abandoned unless there was another one to take its place.

Hon. Mr. ROBINSON: From what I can gather, only one kind of amalgamation seems to have been suggested, and that is under company management. I should like to know if any consideration was given to the question of amalgamation under government management.

Mr. BEATTY: Not by me, sir.

Hon. Mr. CASGRAIN: Are railways in the United States not contemplating the abandonment of a very large mileage just now?

Mr. BEATTY: Yes. They know that consolidations would result in eliminating some duplications and unprofitable mileage.

Hon. Mr. CASGRAIN: Have you any idea of how much mileage they are expecting to abandon?

Mr. BEATTY: No.

Hon. Mr. DONNELLY: I gather from your remarks, Mr. Beatty, that you are in favour of consolidation.

Mr. BEATTY: For the purpose of administration only.

Hon. Mr. DONNELLY: Would you be willing to make any suggestion as to the manner in which the obligations of the Canadian National would be taken care of, under consolidation?

Mr. BEATTY: The proposal made to the Commission, and worked out in a rather elaborate way through exhibits and statistical statements, was a consolidation for the purpose of administration—not a physical amalgamation, not a financial amalgamation, but simply an administrative amalgamation, if I may use that term. And it was to be an agreement between the Government and the company under which we entered into a profit sharing arrangement, that the net earnings of the combined systems should be divided in certain proportions, as decided upon by the parties, the percentage payable to the Government increasing as the traffic increased. Of course, we had not got down to a discussion of the details, but it would not be difficult to do substantial justice to both railroads and their owners.

Hon. Mr. BEAUBIEN: You do not object to Part 2?

Mr. BEATTY: No, sir.

Hon. Mr. BEAUBIEN: If I understood you correctly, you think it is a prod for a good purpose—to carry out retrenchment.

Mr. BEATTY: Plus the appointment of the trustee. I think that is very important.

Mr. BEAUBIEN: Because you think that sanction is unjust to your company, would you care to mention any other method that might be resorted to to give sanction to the law?

Mr. BEATTY: I did suggest, if another method were considered, that the Government and the Canadian Pacific might profitably make an agreement for a term of years, under which there would be set up certain machinery—virtually the machinery set up in this Bill—and providing protection for our share and security holders in return for our divesting ourselves of the right to control our own operations. That has never been discussed.

Hon. Mr. DANDURAND: Guaranteed interest?

Mr. BEATTY: Something of that nature.

Hon. Mr. CALDER: I come back to the suggestion I made before. I understand that you are strongly opposed to Part 3 of the Bill.

Mr. BEATTY: Yes, sir.

Hon. Mr. CALDER: And I understand your reasons. Now if the Senate is in favour of the establishment of an arbitral tribunal, I throw out the suggestion that it be provided for in the Bill, but that it should not go into operation unless the Government thinks it wise. For the moment I am taking the view that this committee may recommend to the House the establishment of the arbitral tribunal. It seems to me that if that suggestion is worthy of consideration another step would be necessary, namely, that the Government should be made familiar at all times with the subject matters that are discussed co-operatively, and should be advised from time to time when the two systems fail to co-operate, and why. Having that information before them all the time they can readily grasp the extent to which co-operation is being carried on, and if there is any indication that either party is failing to co-operate, they can bring

into being the arbitral tribunal. That is merely a suggestion. It is possible that a majority of the committee may be in favour of the tribunal, and that we may make a recommendation accordingly to the House.

The CHAIRMAN: Bring it into force by proclamation?

Hon. Mr. CALDER: Yes, bring it into force by proclamation, on the understanding that the Government is at all times to be made thoroughly familiar with the extent to which co-operation is being carried out, and that if there is a manifest failure on the part of the companies to co-operate, to bring into being the arbitral tribunal.

You say, Mr. Beatty, "Leave that to future legislation".

Mr. BEATTY: Yes, for the reason that our objection to the arbitral tribunal would be just the same whether it came into being now or later.

Hon. Mr. CALDER: Suppose it is necessary.

Mr. BEATTY: The Canadian Pacific claims that its rights under its charter should not be interfered with in that way. You say, "Suppose we hold it in suspense over your head?" I say the objection is exactly the same. I do not think it would ever happen, but in theory our position is exactly the same, short of an agreement with the company.

Hon. Mr. CALDER: I quite follow your argument and the difficulties that are in the way. There is no doubt at all from the discussion that has already taken place that the necessity for co-operation is very great. I think we are all agreed on that.

Mr. BEATTY: The necessity for economy, sir.

Hon. Mr. CALDER: And while there is a willingness on both sides to co-operate, we find that that co-operation does not take place to anything like the extent that it should.

Mr. BEATTY: How could Parliament be advised of that? That means that the Government would sit in judgment on the wisdom of the trustees and of the board of directors of the Canadian Pacific Railway. They would say: You should have acceded to this, or to that.

Hon. Mr. CALDER: You have said yourself that it all rests on the will of the two parties. If you have the proper trustees and the C.P.R. is represented by the proper people there should be no difficulty about co-operation.

Mr. BEATTY: Quite.

Right Hon. Mr. MEIGHEN: Mr. Chairman, there are some things that I feel I ought to say at some time, arising out of the presentation just made and the questions asked, and it seems to me but right to say to them while Mr. Beatty is here, so that if he cares to make any observations he may do so at this time. First, I am sure that I speak the mind of all when I say that we have had a very excellent contribution to our work from the President of the Canadian Pacific. What he has said has been succinct and has borne immediately on the major points in issue, and, from his standpoint, has been most impressive.

With regard to what I have to say—and I shall be very brief—I ask that two things be kept in mind, namely, that the Government and this committee have before them the recommendations of the Commission; that the Commission was comprehensive in its personnel, high in its character, and, from the point of view of actual business experience of virtually every one of its members, extraordinary; that to follow the recommendation of the President of the Canadian Pacific would be to go counter to the Commission in its main practical recommendation and in the major feature of its report. I do not want to intimate that that is impossible; I do not want to subtract anything, either inferentially or by specific words, from what I said in introducing the Bill. The committee, in making its recommendations, and Parliament, are entirely free

notwithstanding the report; but the fact that the report is there is a great and almost a dominating factor in our deliberations.

The second thing which I think ought to be kept in mind is this. Whatever may be the difficulties of single management—to give it a euphonious name, instead of amalgamation—I would be unjust to myself if I did not say that in it I see tremendous merits. I do not see anything impracticable from the standpoint of unfairness to either side, in the working-out of such a plan. A plan could be worked out under which the returns from joint operation would be allotted to the various securities of each company in a way that would be wholly fair and that undoubtedly would produce very great results, both in returns to the security holders and in savings to the nation. But what has to be kept in mind now is this: Such a solution is wholly alien to the spirit and genius of the Commission's report and to the Bill which is now before us. I think I am not going too far when I say that the judgment of the Committee, as declared up to now in the interim expressions of opinion that have been given—all of which may be altered subsequently—is that this country is not ready for it. That apparently was the opinion of the Commission. This country may never be ready for it. The country seems to fear the creation thereby of a great organization, an organization so mighty in all its aspects as to constitute a political power which should not be created.

In that connection I want to animadvert to a statement in Mr. Beatty's presentation, that the Commission in fearing that amalgamation or joint management would create such power and place it in the hands of a few, felt that the cure would be reached by placing it in the hands of one.

The observation was very pertinent; indeed, it was epigrammatic. But is there not a very great difference? The tribunal in which the Bill contemplates the power shall be vested, is a tribunal wholly of a judicial or arbitral character. It is not a tribunal that possibly could exercise, or be vested with, any measure of political power on earth. The Arbitral Tribunal will be headed by one whose decision is virtually final; but it is final only in the same sense as is a decision of the Railway Commission or a judgment of the Supreme Court of Canada. There is a great difference between a tribunal vested with final powers when that tribunal is purely judicial, and a great corporation vested with gigantic powers when its personnel extends from the Atlantic to the Pacific, and when its size in relation to this Dominion would be tremendous indeed. I am not saying that this objection is final, but I do say that the point raised by Mr. Beatty, in my judgment, is not well taken, and that we are not doing the same thing in an intensified or in any form in vesting these powers in the tribunal.

Having made those two premises, I want simply to direct my words to one objective, to enabling the President of the Canadian Pacific to elucidate further the arguments he has already very forcibly presented, and, necessarily, to have my words useful to that end I take a line antagonistic to his. I hope he will not consider that I am doing so in any final way, but only that the other side of the case may be before him, and that he may give such help as he can to the Committee in meeting difficulties, which we undoubtedly have.

He says: "We are quite prepared that Part II shall remain, and that we shall be directed to adopt co-operative measures, to the end of economies." He agrees that this is just as vital to the Canadian Pacific as to the other road—and I observe here that the only purpose of the Government is to bring about these economies for the joint benefit of both systems, feeling that the benefit of the one is almost as vital to the nation as the benefit of the other. He says: "We are agreeable to it because it gives a direction." I should like to call his attention to this fact, that over the past ten years the principal incentive of co-operation has been present just as much as it will be in the future, namely, the incentive of interest. There is no incentive to any corporation or to any indi-

vidual so great as the incentive of interest; and common interest was immediately and eternally before these two railways for the last ten years. The practical result has been a measure of co-operation, but a very small measure relative to necessities. The aspirations of one came in conflict with the aspirations of the other. The pressure of different parts of Canada came into play, and especially in respect to the Canadian National that pressure was so great that efforts to co-operate proved futile to an overwhelming degree.

Now Mr. Beatty expresses the hope that if there is no Arbitral Tribunal, the incentive of interest still being present, and as well the assistance of a direction from Parliament, which amounts only to a statutory aspiration, they will be able to effect very great results. I express considerable apprehension on the point. I ask Mr. Beatty to consider this, that if we pass the Bill in that form there will be tremendous pressure exerted on the Canadian National Trustees from all parts of Canada to maintain that separate line or separate terminal or other facility, and they will find just as much difficulty as ever if not even more, in agreeing to take steps in defiance of that pressure here, there and everywhere.

I ask him also to remember this, that in the program which he has indicated to the Committee, co-operation along lines of abandonment of trackage, by far the greater part of that trackage is to be Canadian National; and therefore it would seem to me not at all unlikely that it will be the Canadian Pacific which will be calling upon, or will find it in its interest to use, the Arbitral Tribunal even more than will the other side to the controversy. The sacrifices that will involve pressure from the country will be very largely on the side of the Canadian National Railways, and, I think, he will find very great difficulty in coming to terms with them because of the exertion of that pressure, which he knows, and I know, will be tremendous.

Now, I have said all I need say along that line. I express very grave doubt whether extensive measures of joint action could be achieved merely because the aspiration of Parliament is but in statutory form. I apprehend that the reasons that have stood firmly in the way of effectiveness in that co-operation in the past will stand just as firmly in the way in the future and will probably overcome other considerations.

Now, I come to the argument, which is of course a very forceful one, that this Bill interferes with autonomous rights of the Canadian Pacific management. I know it does. And unless Parliament is firmly convinced that it is in the end going to work much more to the advantage than to the disadvantage of those interests, I do not feel that Parliament would be disposed to pass it. But Parliament has to regard the matter wholly from the standpoint of the Dominion of Canada, and from that standpoint Parliament has been compelled in other years to invade autonomous powers of the Canadian Pacific—as far as I can see yet, subject to further enlightenment—to just as serious a degree and in just the same way as it is invading them in this Bill. Mr. Beatty said: You do it when you erect your Railway Commission; but that is a judicial body having a certain measure of jurisdiction over our operations and our rates. True, but there is no invasion so great as an invasion of the earning power of the system.

MR. BEATTY: Their rates, do you mean?

RIGHT HON. MR. MEIGHEN: Their rates; there can be none so vital, none so far-reaching as that. But Parliament had to do it, and Parliament has done it, and I fancy the Canadian Pacific would agree that the ultimate result has not been unfair or disadvantageous to railway operations in Canada.

My next observation is this. Inferentially, at least, if not directly, Mr. Beatty commended the report of the Senate committee of 1925. That committee recommended that the two roads be operated together by a board of fifteen; five of whom would be nominated by the Canadian Pacific, five by the Government, and five by those ten nominees themselves. That report recommended

depriving the Canadian Pacific of its integral power of management. It recommended that the railway should no longer be managed by directors chosen by the shareholders, but by a board with respect to which the government of Canada would have the same rights of selection as the railway would. The suggested invasion there was overwhelming. Possibly Mr. Beatty did not intend to endorse that recommendation specifically. My only object now is to point out that the Senate committee of 1925 foresaw a very great impending emergency, and came to the conclusion that the only way to meet it was through some form of invasion of charter rights of the Canadian Pacific. Then later the Royal Commission, after sitting nearly a year, found that the emergency could only be met by another process of invasion, a method which they deemed, in the circumstances, would not be unfair.

I do not think that the existence in the past of tribunals, whose function is the settlement of disputes, has resulted in encouraging enmity between parties. But Mr. Beatty fears that the appointment of the proposed tribunal in this case would have such a result. In the past has the existence of tribunals not conduced to the settlement of disputes without recourse to such tribunals at all? I am sure that that is the thought the Commission had in mind, that the very existence of a tribunal would be conducive to settlement of disputes and that the functions of the tribunal would not be frequently invoked.

I could not add to what I have said, save at the expense of considerable time; and I hope that if the Canadian Pacific feels that any remarks of mine call for further comment they will make it at the present time, so that the committee will have the benefit.

Mr. BEATTY: With the permission of the committee I should like to make one or two observations. I think we are all agreed that the members of the Commission were men of high character, standing and ability. They almost produced a good report. Mr. Meighen seems to think that their conclusions should be given so much weight as to be almost binding upon Parliament. I do not agree with that. The commissioners have made their report and stated the reasons for it *in extenso*. You are capable of making up your minds as to its wisdom or lack of wisdom, practicability or impracticability, and legislating accordingly.

In some respects I think the Commission's views are extraordinarily faulty. In others, their findings of fact are equally so. But in the main they have dealt with a very difficult and complicated question, involving thousands of pages of intricate statistics, in a way that certainly was praiseworthy. But to say that because they have spoken the rest of us must not have any more ideas on railway subjects, is asking me to accept too much.

Senator Meighen questions the propriety of my idea that the commissioners were illogical in fearing that too much authority might be given to a small group of men, and in giving it to one man. If a group of men, say fifteen in number, had committed to them the administration of the railways of the country, under an agreement between the owners of the properties, these men would probably be the ablest and wisest that he could find in this country. I would have no more fear of any unwise act on the part of those men than I would of such an act by one man who would have the power to sign an order that both railways would have to obey, with respect to an administrative question.

Senator Meighen also says that the incentive to co-operation existed in the last few years; I think he said eight or ten years. But the incentive to co-operation did not exist in the last eight or ten years, because we were having good times, our earnings were increasing, our business was booming, and we all thought that we would escape any serious difficulty. The necessities of the situation and the prolonged depression have compelled us to modify our ideas as to what we should do in the next few years, and it is for the next few years in particular that this legislation is presumed to be effective.

Senator Meighen says that the powers of the Board of Railway Commissioners to direct and control the operation of all companies in certain matters are very wide. So they are. But the greatest power which they exercise was contemplated in the Canadian Pacific charter of 1881. We have always had some regulating body. In the earlier years it operated very perfunctorily. But when the Canadian Pacific was incorporated it was provided that in the event its earnings reached 10 per cent on the capital actually expended on the construction of its lines, its rates should be subject to regulation by an independent tribunal. That was one of the conditions under which we took the charter. In 1913 there was a reference to the Supreme Court of Canada to find out whether our earnings had actually reached that point. The company concluded they had, and ever since then we have been subject, as all other railways have, to any rate regulations by the Commission. But, as I say, that was all contemplated in our charter.

Right Hon. Mr. MEIGHEN: I do not think it could be contended that the earnings are 10 per cent now, but the jurisdiction remains.

Mr. BEATTY: That is so. We are under the complete authority of the Board, and our submission to their jurisdiction was absolute and unconditional. The earnings mentioned in the charter are based upon the cost of our original lines, and that was the figure that governed.

I noticed in the proceedings of a previous sitting of the committee a reference to a matter which I think should be dealt with now, in order that any misapprehension about it may be cleared up. I think it was Senator Laird who referred to the Crowsnest Pass Act, and he suggested that that was an invasion by Parliament of certain privileges and rights that were given to the company in its charter, and that we have been subject to invasion from time to time without being apparently hurt by it. Now, the Crowsnest Pass Act was the result of an agreement. We wanted to build a railway out there and we wanted a subsidy, and the Government said, "We will give you a subsidy provided you comply with certain conditions." We accepted those conditions and we got the subsidy. An agreement was made, but there had not been any obligation on the part of the railway prior to that to build the road.

Right Hon. Mr. MEIGHEN: Have not the rates been reduced below those first agreed upon?

Mr. BEATTY: They have been reduced, yes.

Right Hon. Mr. MEIGHEN: By agreement?

Mr. BEATTY: Yes. We accepted them after long discussion. I want to make just one observation about the Senate report. I did think highly of that report. The Canadian Pacific never expressed any opinion upon it officially. I thought it might be possible, had it reached the point of negotiation between the Government and the company, that if the securities were there provided the company's shareholders and directors might think it an advisable thing to do. But as they never had to make a decision, and as they were never referred to, we have nothing to go by now. I felt that it did involve the very form of consolidation for the purpose of administration that I myself felt very favourable to. But we have never reached the point of considering it in any way.

Hon. Mr. LYNCH-STANTON: Mr. Beatty, you admit that there has not been co-operation during the past ten years?

Mr. BEATTY: There has been some, but no enough. There has not been, because of intensive competition.

Hon. Mr. LYNCH-STANTON: You contend that it is essential.

Mr. BEATTY: It is the only thing suggested by this Commission, and we say: Yes, we will try it, and will do the very best we can with it, and the result, we think, will be as satisfactory as you can expect.

Hon. Mr. LYNCH-STAUTON: You do not blame the Canadian National for the lack of co-operation?

Mr. BEATTY: That is a question I should not like to answer.

Hon. Mr. LYNCH-STAUTON: Suppose that you refuse, or that they refuse to co-operate in the future, should not there be someone to compel co-operation?

Mr. BEATTY: There is no danger of that. I place my reliance in the trustees of the Canadian National Railways. I believe they will be men of eminence and ability, and that we can work with them. I do not believe you will appoint anyone else.

Hon. Mr. LYNCH-STAUTON: That is only a pious hope.

Mr. BEATTY: It is a conviction.

Hon. Mr. DANDURAND: Under separate management could co-operation bring about unification of the telegraph services and the express services, for instance, or of the town and city ticket offices throughout the country? Could that be done under separate management, or under this Bill?

Mr. BEATTY: The Commission certainly left me with the impression, by section 222 of their report, that we were at liberty to adopt any measures we saw fit in order to bring about a cessation of this competitive condition in respect of ancillary services. Obviously there can be no difficulty in amalgamating our express services and our telegraph services. The express services in the United States have been operated as a unit for years, with very satisfactory results. There is no necessity for competitive telegraph offices in every city, town and village in Canada. That would be a very easy thing to accomplish; and the same principle could be, and I hope will be, extended to include as much of the wireless business as is transacted in Canada.

The CHAIRMAN: That would be done by agreement.

Mr. BEATTY: Yes, and the report contemplates that; but the Bill makes it impossible.

Hon. Mr. DANDURAND: You have spent millions in opening offices in central districts in towns and cities. Cannot they be dispensed with?

Mr. BEATTY: Some can and some cannot. In many places there could be joint ticket offices. That is along the line of the things that we should do.

Hon. Mr. CASGRAIN: Would not the passengers buy their tickets at the stations? They have to go there anyway.

Mr. BEATTY: That is perfectly true. The practice of having city ticket offices has been inherited from the United States. It has been their practice for over one hundred years to bring the ticket offices fairly close to the centres of the cities, and we have probably over-developed that idea in Canada. I think that if we had a uniform practice of not having them, or of limiting them, we would not be adversely affected.

Hon. Mr. LYNCH-STAUTON: Do they have central offices in England?

Mr. BEATTY: They have booking offices.

The CHAIRMAN: They have steamship offices.

Mr. BEATTY: Yes. We have to have those.

The CHAIRMAN: Of course, you operate in the United States as well as in Canada?

Mr. BEATTY: To a very slight degree, as far as railway mileage is concerned.

The CHAIRMAN: Do you anticipate any difficulty by reason of any of the statutes governing railway operation in the United States interfering in any economy that you might desire to make, say, in ticket offices?

Mr. BEATTY: Not in that. I suppose the State Commissions have a certain jurisdiction over the abandonment of facilities. We would have to go through the legal formula.

The CHAIRMAN: Nothing we could pass here would affect it?

Mr. BEATTY: No.

Hon. Mr. DANDURAND: I realize that Mr. Beatty is mainly interested in the C.P.R., but he has been a close observer of the workings of the Canadian National. I see in the testimony of Mr. Ruel, the statement that the Canadian National is running behind at the rate of \$150,000 a day, which means \$54,000,000 a year. I find also that Mr. Hungerford, who followed, declares that considerable economies have been made during the last two years, and he adds: "We have got down to this point now, that anything more that is done is going to hurt the public." I should like to ask Mr. Beatty if, under separate management under this Bill there is any hope of salvation, of reducing the expenditure of the Canadian National to such an extent that it will do away with that deficit of \$150,000 a day?

Mr. BEATTY: Not without a substantial increase in gross earnings.

Right Hon. Mr. MEIGHEN: I understood you to say that there could be a reduction by further co-operative efforts.

Mr. BEATTY: No. Senator Dandurand is asking whether or not the deficits of the National Railways could be wiped out by co-operative effort with our company.

Right Hon. Mr. MEIGHEN: Reduced.

Mr. BEATTY: No, he said wiped out.

Hon. Mr. DANDURAND: We are trying to establish an equilibrium.

Right Hon. Mr. MEIGHEN: Is not this the point? Mr. Hungerford says: "We have reduced as far as we can without impairing public service." He was speaking of the road as at present operated. That does not mean that if the two roads got together to supply service they could not make reductions favourable to both roads.

Hon. Mr. DANDURAND: My query bears on the extent of the economies that will be accomplished, in the estimation of Mr. Beatty, under separate management.

Mr. BEATTY: "Naturally they would not be as extensive as they would be under consolidation, but we could make savings. I do not want you to take the savings now as typical, because these are distress savings. The kind of savings I have in mind are more or less permanent savings, due to combining more closely than we do now. These we estimate at quite a few million dollars a year.

Hon. Mr. BUCHANAN: You have in Western Canada a section of country from Swift Current to the Okanagan, south of the main line, wholly served by your road?

Mr. BEATTY: Yes.

Hon. Mr. BUCHANAN: Do you think it would be possible to establish zones of that type?

Mr. BEATTY: For each railway operated exclusively?

Hon. Mr. BUCHANAN: Yes.

Mr. BEATTY: We interlock and overlap so much.

Hon. Mr. BUCHANAN: The reason I ask the question is that I do not think there is so much complaint about competition or service in that area. But it was only served by the one railroad, and there might be other sections of Canada where the same system could be applied. It would mean the elimination of certain branch lines of the competing system.

Mr. BEATTY: Generally speaking, I would say that the non-competitive territory in Canada gets as good service as any other part, sometimes better.

Hon. Mr. CALDER: Mr. Beatty, during the course of your remarks you intimated that should Part 3 of the Bill come into effect you might have some suggestion to offer regarding the chairman or the umpire. Do you care to express my opinion on that now?

Mr. BEATTY: No. I do not think I am in a position to go into it extensively, but I do feel that if, against our protests, Part 3 was retained, we might be able perhaps in conjunction with the National Railways to make a suggestion of a more workable provision. That is all.

Hon. Mr. LAIRD: Getting back to the draft of the Bill, is it a fair deduction from your arguments, Mr. Beatty, that while you have no doubt whatever as to the desire and willingness on the part of your own company to co-operate, you have not got the same confidence in the other fellow, and that is one reason why you welcome the statutory provisions in Part II?

Mr. BEATTY: On the contrary, senator, I have said, and I believe it, that I put great store on the character of the men who will be selected as Trustees. I believe those men will be of a type that we can work with. The statute says that you shall do these things, you shall consult them, makes this an obligation on both companies, and we propose to do it.

Right Hon. Mr. MEIGHEN: You could not possibly enforce it.

Mr. BEATTY: No, but there are lots of ways of getting around this statute, if that became an issue.

Hon. Mr. CASGRAIN: What are the gross earnings per mile west of Lake Superior and the gross earnings east of Lake Superior?

Mr. BEATTY: They are divided by sections, senator, and are incorporated in the report. You will find it a special part of the report prepared by Mr. Loree. He has shaded the chart with darker and lighter colours according to the traffic.

Hon. Mr. CASGRAIN: It is very hard to understand.

Mr. BEATTY: Yes, but if you study it a little while it becomes clear.

Hon. Mr. BEAUBIEN: I suppose, Mr. Beatty, it will take some time to establish co-operation between two such enormous railway systems?

Mr. BEATTY: Yes.

Hon. Mr. BEAUBIEN: Supposing Part III of the Bill was not enacted now, would it be fair to ask you after twelve months whether that amicable co-operation had been put into effect?

Mr. BEATTY: Yes, we certainly could tell you within twelve months.

Hon. Mr. BEAUBIEN: Then we could judge whether amicable co-operation was possible without coercion.

Mr. BEATTY: Yes, I do not doubt you would be in a position, senator, to judge whether any other course would be possible. For instance, I do not know whether the Senate Committee, with all its wisdom, would be in a position to sit in judgment on the rights or wrongs of the attitude of any of the trustees or of our Board, as to whether we or they should have made a concession here or there, or should not have. But I do know this, the financial consequences of co-operation will be in process of being well known in one year.

Hon. Mr. LAIRD: They will speak for themselves.

Mr. BEATTY: Yes.

The CHAIRMAN: Anything further, gentlemen?

Hon. Mr. LEMIEUX: What is the tax bill of the C.P.R.?

Mr. BEATTY: \$7,000,000 a year.

Hon. Mr. LEMIEUX: So the C.P.R. is vitally interested in reducing taxation.

Mr. BEATTY: Oh, yes.

The CHAIRMAN: It has many sympathizers in that respect.

Hon. Mr. DANDURAND: You have stated, Mr. Beatty, to the Committee that no grain now moves east all-rail.

Mr. BEATTY: That is true.

Hon. Mr. DANDURAND: You say, Mr. Beatty, that in the abandonment of lines, which could not be done in a day, there could be a gradual reabsorption of the employees affected.

Mr. BEATTY: Yes, sir.

Hon. Mr. DANDURAND: Through retirements and withdrawals?

Mr. BEATTY: Yes, sir.

Hon. Mr. FORKE: You made a statement, Mr. Beatty, that I want emphasized a little. I know the opinion prevails in the east that the branch lines in the Prairie Provinces have been extravagant undertakings.

Some Hon. MEMBERS: No.

Hon. Mr. FORKE: Yes, I have heard it said a dozen times.

Hon. Mr. CASGRAIN: I do not deny it.

Hon. Mr. FORKE: I believe Mr. Beatty did make the statement that most of these lines built by both companies have not been extravagant undertakings, but have been in the interests of the railways as well as of the public.

Mr. BEATTY: Senator Forke, we made a special effort to draw that position to the attention of the Government in the memorial which we filed with them, and I think that statement is accurately and succinctly expressed. Allow me to read it again:—

In the policy of the company in these matters, competitive considerations had only a minor part. The chief factors were the interruption of railway construction during the War, and the rapid extension of settlement, particularly in the Western Provinces, which followed it. In Saskatchewan and Alberta alone the area under wheat increased from 6,993,000 acres in 1914 to 21,490,000 acres in 1930. Industrial and commercial enterprises also entered new fields, and for all these, railway service was necessary. These settlements and industries owed their existence in a very large measure to the colonization and development work of the company, and it was but natural that it should look forward to a share of the traffic which they might yield. As has been said, the orderly progress of its program was affected by the action of the rival system, but the future of the company could not have been protected if it had refrained from following the march of settlement. The traffic returns of the new lines up to 1930 fully justified their construction, and the falling returns of subsequent years have been no more characteristic of the new lines than of other parts of the railway.

That is our view.

Hon. Mr. FORKE: Thank you.

Hon. Mr. CASGRAIN: But, Mr. Beatty, the Duff report states that we have only 108 persons per mile of railway. That means about 25 or 30 families. How can they support one mile of railway?

Mr. BEATTY: Not for to-day, senator; but you must remember these are pioneer lines in territory just being settled. We must anticipate these settlement requirements. As you know, we have always done so even so far back as 1890. But as a matter of fact the figures placed before the Duff Commission

indicate that in respect to branch line construction by the Canadian Pacific in Western Canada, the returns were very satisfactory up until the depth of the depression.

Some Hon. MEMBERS: Hear, hear.

The CHAIRMAN: Mr. Ruel made a similar statement before a Committee of this House concerning the Canadian National Lines in reply to a question by a member of the committee.

Gentlemen, we have had a most illuminating forenoon. Before we adjourn I invite any person to put questions to Mr. Beatty. Now is your time. We do not want anyone to be crowded out.

Hon. Mr. MOLLOY: Mr. Beatty, to boil this thing down, are you convinced in your own mind that administrative amalgamation would be better than the co-operation provided for in this Bill?

Mr. BEATTY: Yes, sir, I have not any doubt about it.

Hon. Mr. ROBINSON: That is a very wide statement. It would be better for whom?

Mr. BEATTY: For all of us.

Hon. Mr. DANDURAND: I should like to have an explanation of the word "amalgamation." That excludes joint management.

Mr. BEATTY: "Consolidation for the purpose of administration" were the words used.

The CHAIRMAN: I want to thank Mr. Beatty for going into this subject so extensively. What he has said will assist us very materially in making up our minds about this Bill. Probably Mr. Beatty has not seen the Bill since it was redrafted. We have only one typewritten copy of the new draft, and perhaps Mr. Beatty will look upon the measure in a more favourable light when he sees the redraft. I do not know, of course, whether he would or not.

Hon. Mr. DANDURAND: The redraft does not alter the principle of the Bill.

The CHAIRMAN: I am not going to admit anything until we see the redraft, but I think I am safe in saying that it does not alter the principle. It has been moved and seconded that a subcommittee, consisting of Senators Meighen, Lynch-Staunton, Beique and myself, be appointed to examine the redraft. Does that motion carry?

Some Hon. SENATORS: Carried.

The CHAIRMAN: The subcommittee will meet immediately after the sitting of the Senate this afternoon. We shall then take up the redrafted Bill, which will be presented to the full committee later.

An Hon. SENATOR: Has the redraft been printed?

The CHAIRMAN: No. The function of the subcommittee will simply be to see if the redraft is a clarification of the intention of the Royal Commission. I take it that you all agree that, in order to save time, the subcommittee will have authority to proceed with the printing of the redrafted Bill if so desired.

The committee adjourned until to-morrow, Friday, November 18, at 11 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 3

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

Mr. F. MacLure Sclanders, Commissioner, Saint John Board of Trade,
Saint John, N.B.

Mr. Gordon McLeod Pitts, Engineer and Architect, Montreal, P.Q.

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1932

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Honourable GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	L'Espérance
Barnard	Lewis
Beaubien	Lynch-Staunton
Béique	McArthur
Béland	Marcotte
Bourque	McDonald (<i>Shediac</i>)
Buchanan	McLennan
Bureau	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Daniel	Murphy
Dennis	Paradis
Donnelly	Pope
Forke	Rankin
Gillis	Raymond
Gordon	Robertson
Graham	Robinson
Green	Ross
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Lacasse	Turgeon
Laird	Webster.

[Quorum 9]

THE SENATE,

FRIDAY, November 18, 1932.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A, intituled "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 11 a.m.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: The large attendance convinces me that we made no mistake in reducing our quorum. The subcommittee that met yesterday made corrections in the Bill, and the redraft has been printed and distributed. You will observe there are a couple of corrections in pencil on the front page. Mr. Sclanders, Commissioner of the Board of Trade of Saint John, is here, and I understand that he would like to make a statement. He asked me to read it but I think it would be better if he himself read it. Will the committee hear him?

Some Hon. SENATORS: Certainly.

Mr. F. MACLURE SCLANDERS: Mr. Chairman, this is the submission of the Saint John Board of Trade *re* the report of the Royal Commission on Transportation and Railways.

We have thoroughly studied this most admirable report and would respectfully suggest it as much too valuable and enlightening for merely restricted circulation. In our opinion, steps should be taken to enable its wide and general distribution as the most effective means of impressing the imperative call for railway economies.

As we understand that the Federal Government invites expression of opinion concerning recommendations embodied in the report, may we venture to avail ourselves of the opportunity with regard to the following:—

Arbitral Tribunal:

We are particularly interested in the matters that fall within the jurisdiction of this Tribunal, and especially, the undernoted:—

- (a) Joint use of terminals.
- (b) Running rights and joint use of tracks where there are actual or functional duplications, or where such may be avoided.
- (d) The joint use of facilities where this would promote economy or permit the elimination of duplicating or unremunerative services or facilities.
- (f) Pooling of any part or parts of freight traffic or of passenger traffic.

We feel confident that the prudent application of such powers would prove exceedingly productive of numerous and substantial economies attainable with minimum inconvenience or hardship to both railways and public. In our opinion, the Arbitral Tribunal is thoughtfully conceived and should operate to real National advantage.

The recommendation is that this Tribunal be composed of one representative from each of our two railways, with the Chief Commissioner of the Board of Railway Commissioners as Chairman, or his substitute; but, with all deference, we are conscious of misgiving because of the fact that two or the three members of the Tribunal are railway representatives. Further, while the Tribunal is certain to deal with matters of greatest importance to the public, we respectfully submit that the right to appeal from its decisions should not be withheld.

Trustee:

The report recommends that three Trustees be substituted for the present Canadian National Railways Directorate, and that one of such Trustees be Chairman; also that the majority of the Trustees will govern decisions—provided the Chairman be one of such majority.

While fully realizing the thoughtful and obvious purpose of the Royal Commission to exclude sectional and such other aspects as might reflect against the best achievement of the Trustees in the National interest, we would respect-Grand Divisions now constituting the basis of Senate representation. The fifth fully suggest that their number be increased to *Five*—one for each of the four member, or Chairman, should be *appointed* by Parliament, in our opinion.

In this connection, might we impress that our suggestion implies the appointment of a Trustee for each Grand Division; not by or from each Grand Division.

The reason for our suggestion is recognition of the fact that each section of Canada has transportation problems peculiarly its own and concerning all of which it seems unreasonable to expect any one person to be fully informed. Therefore, we feel that a good national purpose would be served did each Trustee specialize with regard to the transportation problems of a particular division. Thus, while striving in the national interests, the Trustees would have—within themselves—an equipment of specialized information likely to prove most valuable to all Canada.

We feel it imperative that these Trustees be men of the very highest qualifications and personal character; and we are confident that the intense national seriousness of their duties may be accepted by the people of Canada as absolute assurance that only the very ablest, best men will be appointed and that party political pressure will not be permitted, for one moment, to influence their selection.

In the above connection, we wholly endorse the following recommendation in paragraph 283, page 63 of the Commission's Report:—

Senators and members of the House of Commons and persons holding or having within five years held office or place of profit under the Crown in the right of the Dominion or one of the provinces of Canada, should be disqualified for appointment. (As Trustee.)

Intercolonial Railway:

We most earnestly urge that the exceptional conditions attaching to this railway should be completely restored and carried out in letter and spirit. For years these exceptional conditions have been neglected, and the Intercolonial has been operated as though it were an ordinary portion of the Canadian National System.

As you are aware, the Constitutional function of the I.C.R. was inter-provincial trade development. To that end, it carried commodities at freight rates designed to compensate in effective measure for Maritime remoteness from the main markets of this Federation, in Central Canada. Consequently, the railway never was expected to operate as a commercial enterprise, for which reason it was not placed under the jurisdiction of the Board of Railway Commissioners until recent years; and, with all respect, it never should have been.

In support of above, may we quote from the top paragraph, page 77, of the Report of the Royal Commission:—

So, if to-day, the Intercolonial, forming with the National Trans-continental Railway, the Eastern Lines of the Canadian National System, seems to present many of the aspects of commercial failure, it should be remembered that its economic defects are to a great extent inseparable from an origin that had its roots, and remains rooted, in the broader considerations of public policy.

In the Duncan report there is clear and definite mention and recognition of the exceptional conditions attaching to the Intercolonial Railway. Similar pointed reference and recognition are also embodied in the preamble to the original Maritime Freight Rates Act. However, the subject is one concerning which your own intimate knowledge renders unnecessary any further enlargement.

Nevertheless, we very earnestly urge that, if appointed, the rustees recommended in the Report of the Royal Commission, at the outset, do definitely and completely, for all time, establish the exceptional constitutional conditions attaching to the Intercolonial Railway. We would most respectfully submit this as of greatest importance; and, we are confident that you will not deem our request either unreasonable or untimely. Prior to the commencement of their duties, the Trustees should be clearly instructed on the whole matter. This, in fairness to the Maritimes and in protection of their interests in this Confederation.

Accounting Methods:

We were particularly gratified to mark the following paragraphs on page 17 of the report:—

The Maritime Freight Rates Act, 1927, as applied to the Canadian National Railway accounts, results in the exclusion of all operations of the company east of Levis from the system figures and the production of a separate operating return.

No good purpose is served by such a division in the accounts, and a great deal of confusion arises through the present method of presenting two separate deficits.

This Commission is of the opinion that the Maritime Freight Rates Act should be applied to the Canadian National Railways in a similar manner to that of other railways within the territory described in the Act, and that steps should be taken to provide for the inclusion of Canadian National Eastern Lines operating accounts as part of the System accounts, so that the Canadian National Income Deficit shall be all-inclusive.

Under the present system, and in accordance with the Maritime Freight Rates Act, as you are aware, the amount of the 20 per cent freight rate reduction on the Eastern Division—which also covers all territory east of Levis and Diamond Junction, in the Province of Quebec—is slumped along with the operating deficit on the division, including that of the Prince Edward Island Ferry and the Island Railways—constitutional obligations. Consequently, the sum annually announced as required under the Maritime Freight Rates Act, very greatly exceeds the cost of the 20 per cent freight rate reduction. Thus, the general public is given an inaccurate and misleading conception of such cost. We respectfully submit the circumstance as detrimental to the Maritimes, and are much encouraged by the views of the Royal Commission thereon.

Preamble to Maritime Freight Rates Act:

Ere leaving this matter, might we point out that in the revised statutes, the preamble to the original Act is omitted. This we protested at the time—unavailingly. The preamble explains why the Maritimes and Eastern Quebec received the 20 per cent freight rate reduction, and, in fairness to them, certainly never should have been left out. Because of the unusual nature and importance of the Act, the preamble is an essential part thereof, and should be duly restored. We do trust this will be done.

The Transcontinental: It was recognized and agreed that, by reason of special construction and very low grades, the Transcontinental Railway could

haul traffic at exceptionally low rates. Might we venture the opinion that the employment of this line in the fulfilment of the purposes for which it was built at great cost, would enable transportation economics of very material importance. However, we well know that this outstanding aspect of our National Railway problem is not at all likely to escape your earnest consideration.

May we say in conclusion that we are sincerely conscious of the very real seriousness of the railway problem with which you are now striving, and we assure you of whatever little co-operation we might be able to give—in the national interest.

I thank you, sir.

The CHAIRMAN: Gentlemen, you have heard this presentation of the Saint John Board of Trade. Do you wish to ask Mr. Sclanders any questions? If not, we will proceed. Does any person else wish to say anything pertinent to this Bill?

Mr. GORDON McLEOD PITTS: Mr. Chairman, I should like to make a presentation to the Committee. I am an engineer and architect of Montreal. I am not connected with any railway or any other organization. I have given some consideration to this Bill.

The CHAIRMAN: Is what you wish to say pertinent to this Bill?

Mr. PITTS: I think it is.

Hon. Mr. LAIRD: Have we closed the presentation of the Saint John memorial?

The CHAIRMAN: I asked if any persons had any questions to put to Mr. Sclanders. I paused a couple of minutes, but no one came forward. Shall we hear Mr. Pitts?

Hon. Mr. DANDURAND: A question arises, Mr. Chairman, as to the scope of this inquiry. I suppose everyone is invited to give his opinion, but it seems to me that if any person wishes to present his own private views he should submit to the Chairman the day before a short memorandum of the ground that he intends to cover.

The CHAIRMAN: That is not Mr. Pitts' fault. He did not place before me a mere synopsis, he put on my desk his whole presentation, but as I had to be in this room in three minutes I could not very well do anything more than ask him to appear before the Committee and obtain leave. I would suggest, if it is agreeable, that we allow Mr. Pitts to proceed, and as he goes along if we find his views are not pertinent we can stop him. Will that be agreeable?

Some Hon. SENATORS: Carried.

Mr. PITTS: Right Honourable Mr. Chairman, honourable gentlemen of the Senate, I beg to avail myself of the privilege of appearing before your committee to make the following presentation in connection with the Canadian National—Canadian Pacific Bill, which you now have under consideration. I do this as a private citizen, having no connection or consultation directly or indirectly with any railroad company or transportation enterprise.

I wish to congratulate the Government of this country on the eminently practical manner in which they have approached this important question, and on the able and representative personnel of the Royal Commission they appointed. It must bring no small measure of satisfaction to the Premier of this country that a policy which he enunciated some years ago on the occasion of his acceptance of the leadership of his party, should in these later days, be confirmed by the independent findings of a Royal Commission, based on months of technical research and numerous official and popular presentations across Canada.

During October and November of 1931, before the Royal Commission assembled, I took the opportunity of preparing a general review of transportation facilities in Canada, which has been accepted as an unbiased statement of

the present position and future possibilities with respect to these national important undertakings. For the benefit of those members of this Committee who have not had the opportunity of familiarizing themselves with that monograph, I would quote the following summary. This summary deals with airways, waterways, highways and railways.

I will now proceed to the part headed: A solution of the railroad problem. Whereas it is apparent that the problems of the other carriers are susceptible to a simple solution and regulation, the railroads present a much more complicated set of conditions. The present depressed condition of their business reflects that of nearly every other business in the country, with some of the mistakes of the Wheat Pool thrown in for good measure.

If the return of normal business was all that was necessary to bring railroad transportation back to solid ground, the answer would be to hold on and wait for the turn. Unfortunately, the depression has clearly indicated some fundamental misconceptions in our railroad policy for which a truly economic and practical solution must be found at once.

A great deal has been made in certain quarters of the undermining influence of the truck traffic on the business of the railroad, but in Canada the trouble goes deeper than this comparatively new and at present superficial competition. As far as truck competition is concerned, the railroads must recognize it, when properly regulated, as a legitimate competitor, and if they need the business being done by the truck, they must plan to regain it by giving equal or better service.

In the past, speed has been considered a feature of passenger traffic. In the future, speed and frequency must be particularly applied to the movement of our commodities. Whereas the hundred-car train may be an economic unit on the ton-mile basis for the movement over long hauls of bulk commodities such as wheat, coal and lumber, our other industrial and farm products will have to be more rapidly and frequently circulated in small train units, with smaller, speedier engines, special container cars, for certain purposes to reduce packing and handling, and providing a door to door service in combination with the railroads' own truck system. A service which involves delays to make up a car load, or holds a car to make up an economic train, cannot compete with a unit like the truck which loads and leaves.

Short haul business will be handled directly by truck. The longer hauls will be taken off the highway by combination with the rail systems through container cars, thus relieving congestion and realizing an economy in highway maintenance, truck upkeep and personnel. By and on account of the development of the use of trucks, the railways will redesign and rearrange their freight terminal facilities to expedite delivery and bring their services up to date. Thus it is apparent that railroad freight terminals, within metropolitan areas, are being antiquated by truck operation. Trucks will also be used as rail feeders and in new territory to avoid the expense of rail right of way till the development of the section warrants such a permanent construction.

Modern passenger traffic, generally, is working into the long haul, chair car, sleeper and diner class of patron, who travels in comfort and is willing to pay for it. Buses are bound to draw a certain proportion of the short and medium haul traffic by reason of their pick-up feature. If the railroads desire this business and consider it a paying proposition, they will have to put buses on the highways. Over the longer hauls the railroads could, by interchange with their trains at suitable points, provide a combination service of a quality, speed and frequency beyond the possibilities of any small bus company.

As to private motor traffic, a large proportion of these travellers never did and never would use the trains to any extent. The rest is lost business, which

no activity on the part of the railroads can re-establish. Thus we find that, properly applied, motor transport may be made complementary rather than competitive to our railroad systems.

The pertinent questions which present themselves in the search for a solution of our railroad situation, are as follows:

First, are the labour schedules at present in force by the railroads in line with present living conditions and the services rendered? The McAdoo Award on which they are based has been suspected of being a political gesture.

Second, with due respect to the findings and rulings of the Railway Commission, are we paying the railroads the price this type of service is worth, in view of the investment it has been necessary to make in these enterprises to provide it?

Third, is it possible to contrive a system of control which will definitely and for all time place the Canadian National Railways beyond the influence of political log-rolling and petty patronage.

HON. MR. GRIESBACH: What Mr. Pitts is giving us is very interesting. It is a thesis on railway transportation, and might well be directed to the attention of the new Trustees for their consideration; but I think the Chairman should bring the speaker down to the actual terms of this Bill.

HON. MR. LAIRD: Can you deal with the principle of the Bill?

THE CHAIRMAN: Are you able to shorten your remarks a little, Mr. Pitts?

MR. PITTS: I will come to the Bill in two or three minutes.

(Continues reading)

Fourth—Is it possible to conceive a system of administration whereby a Government-owned utility can operate in fair competition with a privately-owned concern?

Fifth—Is it possible that such administration might have the capacity of adjusting and combining the best features and facilities of our two railroads to their mutual advantage, and in such a manner as to give an adequate and improved service without an increasingly heavy charge on the taxpayers of Canada?

Sixth—Is it possible to carry out such a combination and co-operation of these carriers without the Canadian people having to purchase another railroad?

Seventh—Can a system be devised for the budgeting of expenditures on our transportation systems of every class, which would guarantee such expenditures not to exceed the limits of our purse and have some relation to the value of the service the utility provides?

Eighth—Can we look forward to an immigration policy which will add, at a reasonable rate, to the population of our country, a desirable class of citizen, which can be assimilated into our national life and join with us in developing this great country?

Ninth—Are we, as a country, responsible to the shareholders of the Canadian Pacific Railway for a proportion of their dividends in view of the Government's subsidized competition in the railroad business?

Tenth—Can the principle of Service-at-Cost, so effectively applied to such utilities as the Montreal Street Railway, be applied in any degree to the solution of our transportation problem?

Consideration of the foregoing, points to a system of co-ordination and co-operation of the services of these two great railroads in such a manner as to permit of the common use of right of ways, terminal facilities and certain equipment to their mutual advantage and the elimination of all duplication and competition.

To this end a super-directorate should be formed of seven persons, three appointed by each railroad, including their Presidents, the seventh to be appointed by the present Royal Commission, and chosen for his technical ability and freedom from political affiliations.

The CHAIRMAN: You mean the Royal Commission that has made its report?

Mr. PITTS: Yes. This was written before the Royal Commission was called together.

Hon. Mr. DANDURAND: Did you submit that to the Royal Commission?

Mr. PITTS: Yes, sir.

(Continues reading)

The proportion of business of the two roads should be determined over the period of the last ten years and would indicate an approximate ratio of ten by the Canadian National Railways, to eight by the Canadian Pacific Railway. It would be the function of the super-directorate to allot the railroad business of the country to each organization in the above proportion, on the basis of properly prepared schedules, adjusting the use of rights of way, carriers, etc., in an economic and equitable manner. Thus the element of competition would be removed, but all the guarantees of service quality would be retained. The rail facilities only of the companies would be included under this scheme. Each company would generally administer its business as at present, under the general supervision of the super-directorate. There would be no combination of the capital structures of the two systems. In fact it would be advantageous to leave the Canadian National capitalization, as at present constituted, as a constant reminder to the over-enthusiastic proponents of public ownership.

The activities of each road, which investigation proves to be non-essential and non-remunerative, should be discontinued. Traffic of the National lines, which previously has been turned to foreign companies, should be directed, in as far as possible, to Canadian organizations, such as the Canadian Pacific Steamship service.

Hon. Mr. PARENT: Mr. Pitts, I do not want to interrupt you unnecessarily, but did I understand you to say that these representations you are now making were placed before the Royal Commission?

Mr. PITTS: Yes, sir.

Hon. Mr. PARENT: Were any of your recommendations accepted by the Royal Commission?

Mr. PITTS: I do not suggest that, sir.

(Continues reading)

In as far as practical, rates and routings should be adjusted between the roads to insure as great a volume as possible of our Canadian products passing through Canadian ports.

In combination, the roads can devise means and utilize their facilities to offset the competition from the highways of which they at present complain. An analysis should be made of transportation costs with a view to the service receiving the return it is worth, having in mind an equitable adjustment of the long haul rate, especially in winter, to meet the short haul competition of the highway. Some modification of the service-at-cost principle might conceivably be applied.

Hon. Mr. DONNELLY: I fully agree with the remarks of Senator Griesbach, but I would go a little further. Mr. Pitts' essay—if I may call it that—is very interesting, but if we are to establish a precedent that we are to hear every

individual who thinks he has sound views on this railway question we shall never get through with our work. Mr. Pitts' recommendations were submitted to the Royal Commission and I suppose are embodied in the evidence. I do not see any necessity for such a duplication of the recommendations as we are now hearing, and I think it is time that Mr. Pitts was informed that it is not necessary for him to appear before us.

Right Hon. Mr. MEIGHEN: Mr. Chairman, I have not read Mr. Pitts' statement in the Commission's proceedings, but still it may be there. Although I find it very interesting I must say that we are hardly justified as a committee in listening to a repetition of the evidence that was given before the Commission. May I make a suggestion? If Mr. Pitts would be good enough to let me have the document that he is reading from I shall be glad to have it studied, and give it some study myself, and later to report to the committee as to what features of the submission appear really to affect the consideration of the Bill.

Some Hon. SENATORS: Carried.

The CHAIRMAN: Was this presentation made to the Royal Commission?

Mr. PITTS: The portion which I was reading, which has to do with this Bill, was given before the Royal Commission, but the portion which immediately follows was not given before the Commission.

Hon. Mr. LYNCH-STAUNTON: Can you not summarize it and leave it to Mr. Meighen? We have a lot to do, you know.

Hon. Mr. DANDURAND: Can you give us your conclusions?

Mr. PITTS: They follow immediately after.

Hon. Mr. DANDURAND: But you seem to have a number of pages there and I would rather that you stated your conclusions in a few minutes.

Mr. PITTS: I will be glad to do that, but I am not able to state them as clearly as they are stated in the document. The presentation to which you have just listened was circulated very widely throughout Canada, to Dominion and provincial members of Parliament and Government officials, boards of trade, chambers of commerce, highway associations, motor organizations and industries, railway officials, technical societies and public and private clubs. It has been printed and reviewed by the newspapers and financial press and delivered before clubs and other bodies, and was very favourably received. I do not suggest that the basic principles of the presentation I have made to you form the basis of the Royal Commission's report, but there is a close resemblance between the two. The real significance lies in the fact that this presentation has been received with approval and appreciation wherever it has been sent and indicates that on the normal cross-section of public opinion, as provided by its wide distribution, the people of Canada are most favourably disposed to a transportation policy as outlined in the recommendations of the Royal Commission. Numerous suggestions have been received from various quarters as to how the railway problem could be solved.

Hon. Mr. LYNCH-STAUNTON: Come down to the Bill.

Hon. Mr. LAIRD: What are your criticisms of the Bill?

The CHAIRMAN: I would suggest that you confine yourself to the main features of the Bill, and then leave your manuscript with Senator Meighen, as he asked you to do. Perhaps the main features of the Bill have to do with the tribunal and the arbitrary powers. Have you anything to say on those matters?

Mr. PITTS: Yes sir.

The CHAIRMAN: Another important feature has to do with the size of the board of trustees.

Mr. PITTS: The Royal Commission report recommends that three trustees should be appointed to manage and direct the affairs of the Canadian National

Railways. In view of the success which has been attained by the Canadian Pacific Railway, under the administration of a larger board, it might be advantageous to increase the number of this board to five. The qualifications for the membership on this board should conform with the requirements of the second paragraph of section 203 of the report, and should include a proper and adequate experience in railroad management, operation and finance. The full qualifications should be drawn up by the Governor in Council. On the basis of such qualifications, the railway commission should make nominations to the positions on the board, the nominations to provide two candidates for each office. The final selection for the board should be made from these nominations by a ballot vote of the combined Houses of Parliament.

With regard to the super-directorate—I use that term because it is the one I am familiar with—

The CHAIRMAN: That is the tribunal you are speaking about?

Mr. PITTS: Yes, the arbitrary tribunal. The report recommends that it consists of three persons. In view of the fact that the report suggests that the directors of the Canadian Pacific meet with the trustees of the Canadian National at regular intervals, it would seem advisable that this body should be increased to three representatives from each road, and that these representatives should meet at regular intervals, and when emergency arose they should adjudicate. In the event of an impasse between the two interested parties, the super-directorate would elect a seventh member to their body and he would act as chairman on the matter in question. Should they fail to come to an amicable decision as to the proper person to perform this function, they should settle the selection by nominating from each Board two nominees, and should have a proportional ballot vote which would mathematically determine who the representatives should be. Should this fail, the Chairman of the Railway Commission could make the appointment.

The other point I wish to make is this. Under the super-directorate the most important question concerns the subdivision of the business of these two railroads. In the monograph I have attempted to review I brought out the proportion of ten for the Canadian National and eight for the Canadian Pacific Railway. It may be that these proportions are not sound, as part of the business obtained by the Canadian National was obtained under uneconomic pressure. But in view of the fact that this is the best way, in my opinion, to handle these operations, you must take the transportation business of the country and divide it between these corporations; and it will be the work of that super-directorate to make such division.

The CHAIRMAN: Now, that is all. Mr. Pitts has to say under our suggestion. I rather think some of his suggestions have merit, whether we can deal with them or not. I presume that now we had better proceed with the Bill as redrafted.

Hon. Mr. DANDURAND: Mr. Chairman, before you proceed to read this Bill to discover whether the committee agrees with the redrafting or not, it seems to me that we could well hear the leader, who is in charge of this Bill, as to the procedure to be followed before we begin discussing the principle of the Bill. I am not very much interested just now in the draft form of the Bill. I know that we are proceeding with the Bill and accept it generally. I wonder if Senator Meighen has any view to express as to the parties that we should hear before we come to a general discussion of the principle of the Bill? We have heard the Canadian Pacific Railway. Will we hear the Canadian National Railways or other parties before we close our inquiry and start discussing the principle? I wonder whether we are not losing time just now in going again through the Bill before knowing the opinion of the majority of the committee as to the principle underlying it.

Right Hon. Mr. MEIGHEN: Mr. Chairman, it is always somewhat difficult to put in a few words a single principle and to say that it is the one principle contained in a measure. The practice has been—I have no doubt it is the same in the Senate as in the Commons—to consider the principle of the Bill adopted when the Bill receives its second reading. In respect of this Bill that has already been done. I do not want to stand too rigidly upon that practice.

Hon. Mr. DANDURAND: We have not adopted the principle.

Right Hon. Mr. MEIGHEN: We have passed the second reading.

Hon. Mr. DANDURAND: Subject to an inquiry.

Right Hon. Mr. MEIGHEN: Subject to the usual inquiry, or rather, I should say, an extraordinary inquiry in committee as to all features of the Bill.

If I were to attempt to define the principle of the Bill, I would say that it is to secure economies in railway transportation in Canada by means of co-operation between the two great systems. That is the only single principle, I think I may say, which pervades the whole measure, and I do not think I am exaggerating when I say that has been adopted. The principle of the Bill, if it can be so defined—and I know of no other way of defining it—we are all agreed to. I am assuming, therefore, that we are not seriously considering in this committee some new principle such as the securing of certain economies by amalgamation. I ask the committee to take it for granted that we are all seeking to secure the essential, imperative economies—by co-operation between the railways themselves—by providing for that in a statute.

Now, if I have made myself clear, I will proceed. There are two or three different features of the Bill, all directed towards the one great end. The main features are, first, the establishment of the Canadian National under the principle of a trusteeship within narrow bounds, three being specified here, instead of the present diversified directorate, as one might call it. The second principle is the statutory direction to the roads that they are to work to the end of economy along certain definite lines, and that they are at liberty to economize, by co-operation, along other lines that cannot be so specifically defined. The third is that if, having made an effort, they fail, the arbitral tribunal shall decide any dispute which arises between them and which may be referred to that tribunal by one of the parties. There is no principle which compels either party to make such reference. The fourth is that the judgment of that tribunal is final, subject only to appeal on questions of jurisdiction. Those are four routes by which this Bill seeks to attain the goal that I first of all set out to define.

My suggestion as to our present procedure is this. Should there be any further delegations affected by any portion or section of the Bill, or requesting that any of the four methods that I have outlined, or any of the minor ones that I have not outlined, should be altered, we may still hear them. We could hear them now. If there are not, I do not see how we can do better than by proceeding to consider the redrafted measure—not with a view to passing the clauses finally now, because we cannot feel thoroughly safe in passing them until we have heard important delegations—but with a view to a more complete comprehension of the Bill itself. The contents of the Bill as redrafted are not different, but they are expressed by a very different wording and by additions, and the proposals contained in it are placed before the Committee in a much more definite and attackable form. I think we ought to be able to conclude this phase of the consideration to-day. Inasmuch as our anticipations of a week ago have been disappointed, in the fact that we will not be able to adjourn this week, and those anticipations having been the basis upon which we sent word to the Labour men and to the Maritime delegation that we would hear them after the adjournment, I would suggest that we have a message sent to them intimating that we would

be pleased if they could come before us next week instead of waiting until after the adjournment. It may be that it will be within their power to do so. If so we shall get some expedition and I hope we may be able to report this Bill from the Committee before Parliament adjourns. It may turn out to be impossible. I should not like to force the situation against the wishes of the Committee, but we want to be in a position to show the people of Canada that we are dealing expeditiously with this Bill, and not rambling along indefinitely and vaguely, hoping that sometime perhaps we shall be able to report it. We want to show them that we are doing our work thoroughly and as fast as we can, subject to hearing, as soon as they can appear, all those who have a right to be heard. It seems to me that at present we can best use our time by going into the provisions of the Bill as they now stand.

The CHAIRMAN: As a matter of fact, I presume that this Bill as reprinted is the report of the subcommittee to the Committee that appointed them.

Right Hon. Mr. MEIGHEN: Yes.

The CHAIRMAN: This is the work we did yesterday.

Hon. Mr. DANDURAND: Mr. Chairman, I am inclining strongly to the view that under this Bill we shall not be able to effect the economies that will bring equilibrium in the finances of the Canadian National Railways. It will be most difficult to reach the necessary depth in economies while we maintain competition. Yesterday you heard the President of the Canadian Pacific Railway state that under competition the abandonments of duplicating lines would be less than 2,000 miles; while by co-ordinating the two systems some 5,000 miles could be abandoned.

With the special interests of the Canadian National and Canadian Pacific divided by competition, I am very much afraid that we shall not be able to cure the evil which we are now trying to cure. Therefore to-day or next week I should like to ask the Committee whether they would not favour joint management of the two railways, say, for fifteen years. I believe it will take five years to effect co-ordination, and another five or ten years to bring the two systems into working order under joint management. I feel confident that that is the cure.

Yesterday I did not contradict Senator Meighen when he said that this was not the opinion of the Royal Commission. I have read two or three hundred pages of the evidence taken before the Royal Commission, and all through it I note that the Commissioners hesitated to recommend such a scheme because they feared public opinion. Well, I think the Senate can be a little bolder and go as far as the Royal Commission would have gone if they had not felt that public opinion would condemn ultimate amalgamation of these two railways. It seems to me it would be for the Senate to go a step further and recommend a more certain cure of our present railway evil. It is because I am so doubtful of the results of the operation of the two systems under this Bill that I suggest the Senate should have the courage to say: We will give joint management of the two railways to a certain number of directors appointed by the Canadian Pacific Railway and by the Canadian National respectively.

I have heard it said that we should not be able to find as delegates of the state men who would measure up to the standard of the Canadian Pacific Railway directors. Well, no one around this table has so expressed himself, but if it is felt here that that difficulty would arise is it not a clear condemnation of the state ownership principle.

By this Bill we are making a start in the right direction, but for the fact that it is complained that we are undoubtedly invading the charter rights of the private company. Under a system of joint management I think that grievance would disappear. I challenge anyone around this table to rise and say that the end we are seeking would not be more surely effected by joint management than by the principle of the co-operation embodied in this Bill.

It is claimed that the people have a suspicion that after ten or fifteen years of joint management there will be an amalgamation of the two railways. Well, if such an amalgamation is good for the country, let it be so.

Hon. Mr. LYNCH-STANTON: Will you explain what you mean by joint management, senator?

Hon. Mr. DANDURAND: I think in 1925 my friend helped to draft the recommendation suggesting joint management of the two railways, and it was passed unanimously by the Senate. We declared—I cited it in the speech I made in the Senate last week—that there should be joint management of the two railways by a board composed of five representatives for the Canadian Pacific Railway and five representatives for the state, and that those ten could select five more members. I am not wedded to the form of that recommendation, for perhaps a joint board of ten would suffice. Under such management we would have the two systems administered in the best interests of all concerned. And there would be this added advantage, that you would have the incentive for gain furnished by the private ownership representatives. This scheme would not be a monopoly of private ownership or a monopoly of state ownership, but an administrative union of the two systems. It may be suggested that this administration would mean that the private ownership principle would dominate. Well, if it dominated to the extent of saving us from the constant bleeding of the public treasury that we have had during the last few years, I think its domination would be welcomed.

Right Hon. Mr. MEIGHEN: Senator Dandurand, would you mind answering this question? That report also recommended that the country guarantee to the Canadian Pacific a dividend of ten per cent. If yesterday I understood the President of the Canadian Pacific correctly, he intimated that it was because of that guarantee, or because of other features of the report, that the Canadian Pacific felt they would acquiesce in it and submit to this invasion of their complete authority over their own system. Would the senator approve now of giving that guarantee?

Hon. Mr. DANDURAND: As I was listening to Mr. Pitts a few moments ago, I had this very question in my mind. I stated in the Senate recently that we had made our recommendation in 1925 because the Canadian Pacific was earning its dividends at the time, and that probably we would not have made the same recommendation if the present conditions had existed then. The Canadian Pacific is not earning its dividends, or hardly so—

The CHAIRMAN: Are you sure it was earning them then? I know it was paying them.

Hon. Mr. DANDURAND: Well, it was paying them and I think it was earning them. Of course, it is the principle that I want to lay before you and ask the Senate to pass upon. I fear that within a few years we shall be face to face with the necessity of re-solving the same problem, and that we may have to go a little farther in the direction of joint administration if it is not now accepted by the Senate. In my opinion, if the two systems were joined together and reorganized as suggested by Mr. Beatty, Sir Henry Thornton and Mr. Ruel, the resultant economies, due in part to the abandonment of certain mileage—roughly 60 per cent of which abandonment would be by the Canadian National and 40 per cent by the Canadian Pacific—would bring about such a rehabilitation of the Canadian National that probably the Canadian Pacific would accept an equal division of earnings. We shall hear a great diversity of opinions concerning the administration of the two roads, but we already have the opinion of Mr. Beatty, Sir Henry Thornton, Mr. Ruel and Mr. Hungerford as to the action that should be taken with a view to solution of the problem. It seems to me that we need not go much farther, because these men have been connected with the inside workings of the Canadian National and know the difficulties that

have to be faced. Perhaps few honourable senators who are sitting around this table have read the opinions of Sir Henry Thornton and Mr. Ruel. Mr. Ruel was for some thirty years with the Canadian Northern and he went with the Canadian National when it was incorporated. He says that the people do not realize the very serious situation that exists, and he cannot see salvation in anything but joint management of the two railways. /

Hon. Mr. FORKE: May I interject a remark? I have read the evidence of Sir Henry Thornton and I think this Bill is very largely based upon his statements.

Hon. Mr. DANDURAND: Yes, to a certain extent, but if you will read the opinions of Sir Henry and of Mr. Ruel, both of whom have been interested in the financial aspect of the Canadian National Railways problem, I think you will agree that they think the chances of failure instead of success are nine out of ten unless the two railways are brought closer together for administrative purposes. I believe that if the two railroads are administered by a joint board that the consequent economies will place the Canadian National on a proper level with the Canadian Pacific and that probably an equal division of earnings would be agreeable to both roads. I speak with some hesitancy on this point. It would be a matter to be agreed upon by both interests.

Hon. Mr. MURDOCK: I was under the impression that on the second reading of this Bill we had decided upon the principle of: Amalgamation never, co-operation ever. It seems to me that, if we did so decide, we are a little out of order now in undertaking to consider this proposal of Senator Dandurand. Unquestionably the net cost of railroad transportation to the citizens of Canada would be less under Senator Dandurand's proposal than under the plan provided for by this Bill. But are the people of Canada in favour of Senator Dandurand's suggestion? Do they want to sacrifice real competition as between their own railway and the Canadian Pacific Railway? I hope no one will charge me with being biased or prejudiced in favour of a government-owned road, for I have in my pocket a leave of absence as an employee of the Canadian Pacific Railway of over forty-two years' standing, and it has been one of my proudest boasts that I am an employee of that road. But we have before us something far bigger and broader, it seems to me, than the conservation of the rights of one great privately owned utility. Unquestionably if Senator Dandurand's proposal were put into effect the result would be a sure thing for one railway system and a very uncertain thing for the other. I do not believe that the people of Canada want us to do anything with this Bill that would result in unduly handicapping the Canadian National Railways.

Senator Dandurand intimates that his plan would possibly give the Canadian National a chance to make a better showing. Would it? No. The Canadian National is loaded down with a debt upon which it is almost impossible to earn a reasonable return, under present conditions, and Senator Dandurand's method would further handicap the road as an earner of reasonable dividends. Why? Because a great system, in which we all take pride, would have to "get its first," if I may use that term without being unfair.

Hon. Mr. DANDURAND: But the two roads would be in partnership. The gain of one would be the gain of the other.

Hon. Mr. MURDOCK: I have been long enough in the railway business to know that sometimes partnership means leaning a little more towards Martha than towards Mary. I do not think that we in this committee should now seriously consider the proposal put forth by Senator Dandurand. So far as Parts I and II of the Bill are concerned, I think that on the second reading we were in general agreement with the principles proposed and outlined. We are now considering a redraft that was prepared with a view to making more clear and

concise the intent of Parts I and II. It may be that Part III will not stand as it is. We heard Mr. Beatty earnestly objecting to it yesterday. If the people of Canada can get all the real co-operation that they desire between the two great railways, Part III may not be necessary. It certainly might be worth seeing how far the roads would go, in the interests of themselves and of the people, before we place them under the responsibility and the control outlined in Part III.

Mr. Chairman, I should like to have it definitely decided here whether I am right or wrong in believing that on the second reading of this Bill we had adopted the principle of: Amalgamation never.

Hon. Mr. DANDURAND: When I spoke in the Senate I said that in giving the Bill second reading we were not necessarily approving what the leader of the Government had stated and we were not binding ourselves to accept the principle of the measure. It was understood that the Bill would be discussed in committee. It is now before us for examination and discussion, and it is proper to hear any suggestions that can be put forward with respect to it. I am not bound to agree to the principle of the Bill because the second reading was given in the House; I made that reservation.

Hon. Mr. CASGRAIN: Question.

The CHAIRMAN: Well, gentlemen, you have heard Senator Dandurand. A Bill has been presented to us. The Senate sent it on to this committee for consideration. I think we are agreed on the principle that something ought to be done to relieve the situation. If we feel that we do not want this Bill, we can stop it on the first section, or it can be moved now that we report against the Bill.

Hon. Mr. DANDURAND: I have said, of course, that I think the Bill goes in the right direction, but I feel that it does not go far enough, and I think we should go further.

Hon. Mr. GORDON: I move that we go on with the consideration of the Bill.

The CHAIRMAN: You do not need to do that. We are already considering it.

It is a big problem, gentlemen. You will have plenty of time to move amendments when you come to the clauses that have the "interiors" in them. Perhaps we will change the whole digestion of the animal.

You will notice that there is no preamble to this Bill. It struck me that if we wanted to reject it we would have difficulty in following the usual formula, because the formula of the Senate is that the preamble has not been proven. However, we will not worry about that until we get further along. We will take the title last.

Now, section 2 says:—

The provisions of this Act shall prevail over all inconsistent provisions of all other Acts, and shall bind His Majesty.

Hon. Mr. MURDOCK: I note that Part IV of the Bill that we had before us previously, and which contained fourteen words, has been put in here, and that in the transmission we have lost two words, there being only twelve now.

An Hon. SENATOR: There is no Part IV in this Bill.

Hon. Mr. MURDOCK: I am talking about Part IV of the original Bill.

Hon. Mr. LYNCH-STANTON: There never was a part IV.

Hon. Mr. COPP: It is on page 9 of the old Bill.

Hon. Mr. MURDOCK: Part IV of the other Bill contained exactly the same provision that is in this Section 2, which is captioned "Inconsistent Acts—His Majesty bound." What I want to say is this. With all due respect, and without reflecting on the members of the legal profession around this table, I, without any knowledge of the law, see in this Section as now worded a wonderful opportunity for the members of the legal profession to get into conflict with

each other as to what other Acts are inconsistent with the provisions of this Act. When we were discussing Part IV before, I asked for—and I hope that even yet it may be possible to get it—an intimation as to what other Acts there are that might be regarded as inconsistent with this measure. I say that because railroad men throughout the length and breadth of Canada have worked for and have secured certain Acts that they thought were in their interest and of possible benefit to them, and they want to know whether all those Acts are wiped out by the twelve small words in this section.

Right Hon. Mr. MEIGHEN: The object of placing it here, Senator Murdock, instead of at the end, is, first, that it is not important enough to be made a separate part of an Act. It is altered in this respect, that the provisions of this Bill are made to bind His Majesty. That is considered necessary because of His Majesty's ownership of certain of the lines.

You did ask before what other Acts might be overridden by this Act. There is no Act which in itself would be overridden, but there are portions of Acts which would be, for example, certain portions of the Railway Act dealing with the Railway Commission. In deciding whether this Act would override or not we have to consider whether this Act is right or not. If it is right it should override the other, because it is a later Act. Certain features of the Combines Act might have to yield supremacy to this Act. We are not afraid of any combination that might result from this Act. Then I am told that Section 498 of the Criminal Code would be overridden.

I think that what the Senator has in mind is that this Act would override the provision of the Railway Act which gives the Railway Commission power to make certain salutary provision for terminal employees when a terminal is closed.

The CHAIRMAN: There is one, anyway.

Right Hon. Mr. MEIGHEN: I do not like to speak too finally on law, but I do not think that is the effect at all. The Railway Commission is not forbidden by this Act to make any provision that it could have made under the old Railway Act.

Hon. Mr. MURDOCK: May I put a case? Providing that under this Bill the two railroads decide to eliminate entirely some terminal, or to establish a joint terminal and have the work all done by one class of employee, would it not be held that the Act which gives those employees the right to go before the Railway Board and claim that their homes and property are valueless on that account, had given way to this Act?

Right Hon. Mr. MEIGHEN: I do not think so. I give it as my opinion that it would not.

Hon. Mr. LYNCH-STAUNTON: It is not inconsistent with this Act.

The CHAIRMAN: Remember, gentlemen, we are just trying to ascertain whether this is a true representation of what the first draft of the Bill had in mind. We are not adopting anything, so we do not need to take very long over it.

Hon. Mr. MURDOCK: Would it be improper to ask whether the draftsman of this Bill could prepare a list that would show concretely the Acts or parts of Acts that might be affected by this provision?

Hon. Mr. LYNCH-STAUNTON: The senator ought to remember that the word "inconsistent" is the controlling word.

Hon. Mr. MURDOCK: But the word "inconsistent" gives lawyers an opportunity of going into court and arguing strenuously.

Hon. Mr. LYNCH-STAUNTON: There is no provision in this Act affecting the workmen in the event of the elimination of a terminal, so there is nothing inconsistent in the other measure.

Hon. Mr. MURDOCK: But by a later section in this Bill absolute right is given to eliminate terminals. Then can it be said that under another Act the workmen can come in and claim compensation?

Hon. Mr. LYNCH-STAUTON: Yes, because the other Act gave the right to eliminate the terminals. It is only transferring the right to eliminate, and does not enact anything in regard to what follows. Therefore it is not inconsistent with the provisions that now exist.

Hon. Mr. MURDOCK: I do not want to appear too insistent, but by this Bill the two railways are instructed to bring about co-operation, and, if necessary, that means elimination of terminals.

Right Hon. Mr. MEIGHEN: With all the results of elimination which are given to them under the present law. If the senator would follow this reasoning, perhaps it would be clearer to him. The two railways agree to do certain things, say, one to close a terminal, another to switch into a terminal. Each individual road performs its part. When it performs that part, then it is performed with just the same results as are imposed upon it under any statute.

The CHAIRMAN: Does this language express the view of the original draft?

Some Hon. MEMBERS: Carried.

The CHAIRMAN: Section 3. You will observe that commencing in line fifteen the words, "such Chief Commissioner is absent from the city of Ottawa and if and when" are stricken out of the redraft. Again we will say this is a printer's error. Will section 3 pass scrutiny?

Right Hon. Mr. MEIGHEN: I think I owe it to the Committee to make an explanation here. Number 3 is the defining clause. The Committee will remember that in the old Bill Part I had certain definitions which were said to be applicable only to that part; but the same words so defined were used in other parts where the definitions did not apply at all. Here these definitions apply right through the Bill, and, besides, they are far more extensive. For example, take the definition "Chief Commissioner." Wherever you have the words "Chief Commissioner of the Board of Railway Commissioners for Canada" or simply the words "Chief Commissioner" they mean the actual Chief Commissioner of the Board for the time being and include the President of the Exchequer Court of Canada if and when it is made to appear to such President that such Chief Commissioner is temporarily unable to perform his duties under this Act. As members pointed out, and rightly so, the way the first draft Bill read the words "Chief Commissioner" referred only to the Chief Commissioner then in existence. The definition must mean the Chief Commissioner for the time being in existence.

Then the first draft Bill did not provide for the contingency of the Chief Commissioner not being able to act. Some honourable members thought the definition should cover the Deputy Chief Commissioner. It has been thought wise not to adopt that suggestion because the Railway Act does not require that the Deputy Chief Commissioner shall be a lawyer; and if ever a man ought to be a lawyer it would be while acting as Chairman of this Arbitral Tribunal. Therefore we provide that in case of indisposition of the Chief Commissioner the President of the Exchequer Court of Canada is to be the Chairman of the Tribunal. That seems to be an entirely proper substitution to make.

The next definition is "dispute." The word appears throughout the reading of the whole Bill. Therefore it is advisable to define "dispute" in such clear and at the same time comprehensive terms that it will include anything that may be decided by the Tribunal. The definition is not short, but I think it is clear; and that it is a worth while definition I haven't the least doubt. This Bill, I may assure Senator Murdock, though it has defects now, and we will have to improve it as we go on, yet it will not mean the prolific mother of lawsuits as the old one was certain to mean if passed as drafted.

The next definition has to do with the railways. In the old Bill the Canadian National Railway was called "the said road." That does not seem a very good title. For short we call it the National Company and the Canadian Pacific the Pacific Company all through the Bill.

In the old Bill the Canadian National Railways Act of 1927 was called the "said Act." It is now defined as the "National Act."

The definition "Trustees" means the Trustees appointed under the Bill.

Then we have the word "undertaking" defined. The word is used often in this measure, and as lawyers will at once agree, "undertaking" is a most comprehensive term in itself. Interpreted by our courts, as it has been more than once, it is considered about the widest term you can use in regard to a single company. A company's undertaking means an awful lot: its physical assets, its franchise rights, its rights in relation to leases and all sorts of things. But even then the draftsman did not think the interpretation the courts had given was quite wide enough and therefore a special definition is provided which includes what the courts have interpreted the word to mean and makes it a little wider still. Such is the effect of these definitions.

The CHAIRMAN: In subsection (c) of section 3, beginning at the twentieth line, it is suggested by the draftsman that the words after the word "transportation," that is, "and every company controlled by or allied with it" be stricken out. What do you say to that?

Right Hon. Mr. MEIGHEN: That is right. It is all included in "undertaking."

Some Hon. MEMBERS: Carried.

The CHAIRMAN: Number 4. What are the changes there?

Right Hon. Mr. MEIGHEN: There is not any very great change in the first part of 4. It does not contain the whole of section 4 of the old Bill. The wording is governed by the wording of the old Canadian National Act, which speaks of nominating directors; it does not speak of appointing them. Therefore when we provide that the directors shall go out, we vacate the nominations. It is somewhat of a new phrase, but we had to say it because "nominating" is used in the old Act. The second part of the section brings about some change only in the disposition; there were two clauses containing the effect of this clause before, and we have just put them together.

Some Hon. MEMBERS: Carried.

The CHAIRMAN: Not in the sense in which we sometimes say "carried."

Hon. Mr. McRAE: In view of the fact that we have received an invitation to attend the formal opening at one o'clock of the new Embassy Building of the United States, I think we should show our appreciation of the courtesy by our personal attendance. Therefore I move that we adjourn.

The CHAIRMAN: What is your pleasure, gentlemen?

Right Hon. Mr. MEIGHEN: We can adjourn and resume immediately after the sitting of the House this afternoon.

The CHAIRMAN: Is that satisfactory, gentlemen?

Some Hon. MEMBERS: Carried.

The Committee adjourned at 12.30 p.m.

The CHAIRMAN: We are at section 5 of the redrafted Bill, which reads:—

No person shall be eligible for appointment who at the time of any proposed appointment of a Trustee or Trustees under this Act is, or within five years immediately then preceding has been

- (a) a member of the Senate of Canada;
- (b) a member of the House of Commons of Canada;
- (c) a member of the Council of any province of Canada;
- (d) a candidate nominated under any Act of the Dominion or of any province of Canada for election as a member of the House of Commons of Canada or of the Legislative Assembly of any province of Canada; or
- (e) the holder of any office, place or appointment to which is, or while it was held by him was, attached any salary payable directly by His Majesty in His right of the Dominion of Canada.

Right Hon. Mr. MEIGHEN: I do not want it inferred from any remarks I may make that the Government or I want this section passed as it is, but it does plainly state what the commission had in mind. We have put the commission's intention in such form that the committee can accept it in part or in whole, or strike it out in part or in whole.

Hon. Mr. McRAE: I think it should be enlarged to exclude the appointment of any business man who has ever had an unsuccessful venture in his career.

The CHAIRMAN: One gentleman said it should be stated in the preamble that the object is to exclude the brains of Canada.

The next is section 6:—

The trustees shall be paid by the National Company such salaries as may from time to time be fixed by the Governor in Council.

Hon. Mr. ROBINSON: I have a point, not by own idea but one expressed to me by another senator, in connection with this section. Should there be some provision to prevent the trustees from receiving anything from the railway in addition to their salaries?

Right Hon. Mr. MEIGHEN: I am grateful to Senator Robinson for the suggestion, for it strikes me now that there should be some such provision.

The CHAIRMAN: Then section 7:—

The Governor in Council may from time to time appoint or reappoint a Trustee to fill any vacancy among the trustees from any cause occurring. The appointee shall be selected from a panel of eight names to be provided by the remaining trustees or trustee. If no such panel is so provided within ten days after the occurrence of a vacancy the Governor in Council may appoint as he may be advised.

It will be remembered that in the first draft of the Bill it was essential that a panel be provided by the trustees. The important difference here is in the last sentence of this redraft: "If no such panel is so provided within ten days after the occurrence of a vacancy the Governor in Council may appoint as he may be advised."

Hon. Mr. DANDURAND: Did the original Bill not provide for a panel of five?

Right Hon. Mr. MEIGHEN: No, a panel of eight, as this redraft does.

Hon. Mr. MURDOCK: Mr. Chairman, suppose the term of a trustee expired but he continued on at his work, would there be a vacancy? And in such circumstances would the provision contained in the last sentence have any value?

Right Hon. Mr. MEIGHEN: A trustee is appointed for a certain term. On the expiration of that term his position is vacant, and the remaining trustees are

required to provide a panel of eight names from which there shall be selected an appointee to fill the vacant position. The trustee whose term has expired may be included among that panel of eight, if the other trustees desire; that is, he may be eligible for re-appointment.

Hon. Mr. GRIESBACH: For what period would a trustee be appointed?

Right Hon. Mr. MEIGHEN: Under subsection 2 the chairman of the trustees shall be appointed for a term of seven years, and the other two trustees for such term of less than seven years and different duration from that of his co-trustee as the Governor in Council may decide. The Governor in Council may decide that the term of one will be five years and of the other three years. If that were done, the first vacancy, aside from any that might be caused by death, resignation or incapacity, would be at the expiration of three years. Then the other two trustees would name a panel of eight, and the vacancy would be filled by an appointment for seven years. Subsection 4 provides that all appointments to fill vacancies occurring by efflux of time shall be for terms of seven years. When the term of the man who was appointed for five years had expired, his successor would be appointed for seven years. What is called the stagger system is adopted, although I do not know why that name is used, and there would be a difference of two years between the expiration of the terms of the three trustees.

Hon. Mr. GRIESBACH: Where do you get that interpretation?

Right Hon. Mr. MEIGHEN: That is the way the Bill reads, as redrafted, but it was not the effect of the original provisions. Suppose one of the trustees died before the expiration of his term. That would create what is called a casual vacancy, which is covered in subsection 3. The successor would be selected from a panel of eight, as provided for in the first paragraph of the section, but his term would be only for the unexpired portion of the deceased trustee's term. So the stagger system would be preserved.

Hon. Mr. CALDER: You are only surmising that the terms will be for three and five years?

Right Hon. Mr. MEIGHEN: They may be two-and-a-half and five years.

Hon. Mr. MURDOCK: In order that it may be clear to the layman, would there be any objection to stating that a vacancy shall be considered as existing at the expiration of the term of appointment?

Right Hon. Mr. MEIGHEN: If a man were appointed for seven years he would not occupy his post one day after the expiration of the seven years.

Hon. Mr. COPP: He continues until his successor is appointed, according to subsection 5 of section 7.

Right Hon. Mr. MEIGHEN: Yes, that is so. I see no value at all in subsection 5, and it should not be included, in my opinion. If a vacancy occurred two trustees could do the necessary work until the new appointment was made.

Hon. Mr. CALDER: Subsection 5 does not do any harm.

Right Hon. Mr. MEIGHEN: Yes it does, because as Senator Murdock points out if a trustee continues in office there is no vacancy.

The CHAIRMAN: Isn't there a vacancy, in a legal sense, at the expiration of the term?

Hon. Mr. CALDER: Yes. If a man is appointed for seven years he is out of office at the expiration of that term. But the law provides that until his successor is appointed he shall continue to act.

Right Hon. Mr. MEIGHEN: No, continue in office. If there were some object to be served by providing that there should always be three trustees in office, every day of the year, then subsection 5 might have some value, but I do not think there is any object to be so served. It seems to me that it is better to have the trustee out of office when his term is up. If there must be action within a very few days, the other two can carry on.

We have provided in this Bill that if one of them dies—we will say it is the chairman—there is a casual vacancy. This post is filled and another chairman is appointed for the unexpired term. But in the meantime there is no chairman, therefore they cannot function, because the chairman has to concur in anything they do. It is provided therefore in this Bill that the man who then has been in office the longest shall automatically be chairman, and his rule for the intervening two days shall be the same as the rule of the chairman.

The CHAIRMAN: He will be chairman.

Right Hon. Mr. MEIGHEN: He will be chairman. He becomes chairman automatically. If in the first three years one of the short-term men dies and both the others have been appointed at the same time, it is provided that the one who has been appointed for the longer term shall be chairman. I think all contingencies are provided for. This has been done by a new subclause which for lack of time could not be printed with this Bill. It will be Subclause 6, or, if it is decided that Subclause 5 is not necessary, it will be Subclause 5. If the committee thinks that Subclause 5 is necessary, we will substitute for the words "in office" the words "to act." Then this will be 6:—

Upon the occurrence of a vacancy the two remaining Trustees shall and may during its continuance act as and be deemed to be for all the purposes of this Act the Trustees. If the vacancy shall be in the office of Chairman then during its continuance that one of the two remaining Trustees who has longest served as a Trustee, or if both remaining Trustees have served for the same period of time that one of them whose then current term of office will last expire, shall and may act as, be known as, and for all the purposes of this Act be deemed to be, the Chairman of the Trustees.

I think that covers every possible contingency.

Hon. Mr. BEAUBIEN: If you say "shall" why do you say "may"?

Right Hon. Mr. MEIGHEN: It is both commanding and empowering, therefore we use both. He has power to do it, and shall do it.

Hon. Mr. BEAUBIEN: You say he shall and may. If he shall do it, he must do it.

Right Hon. Mr. MEIGHEN: "May" is the empowering word; "shall" is the imperative word.

Hon. Mr. GRIESBACH: I am not going to object to the method of selection of the successors of the trustees, but I am wondering if everybody here is perfectly satisfied that this great property should be in the hands of a triumvirate with power to name their successors through a panel of eight. I wonder whether honourable gentlemen are satisfied that that is the only way to provide for the continuance of the Board of Trustees.

The CHAIRMAN: You can almost make up your mind that the panel will be seven. The trustee will name himself.

Hon. Mr. MURDOCK: After the weeding-out you have done there will not be many more than eight left.

The CHAIRMAN: It has been moved that in line 40 on page 3 the words "in office" be struck out, and the words "to act" be substituted.

Hon. Mr. DANDURAND: There are times when the Government could not appoint within a month. During the summer the Government members disperse, and they may not meet again for a month or so.

Hon. Mr. DANDURAND: There will be eight names to be considered. That may take some time.

The CHAIRMAN: It may take some time to get the names, and then some further time to make the selection.

Right Hon. Mr. MEIGHEN: We will regard the proposed Subsection 6 which I read as inserted in the draft.

The CHAIRMAN: Is that your pleasure, gentlemen? Carried.

Section 8:—

No Trustee shall be removed from office, nor suffer any reduction in salary, during the term for which he is appointed, unless for assigned cause and on address of the Senate and House of Commons of Canada.

Right Hon. Mr. MEIGHEN: The change here is the addition of the words "nor suffer any reduction in salary." The intent of the Commission was to prevent a change in the Board of Trustees with each incoming Government, and therefore it is provided that they shall remain. But as the Act read before the incoming Government could reduce the salary to \$1, and the trustee would have to go. We get over that by saying that he must remain there at a certain salary until his term of office expires.

Hon. Mr. MURDOCK: If this had been in effect last spring the trustees would have been the only men in the pay of the Government who would not have had a ten per cent reduction.

Right Hon. Mr. MEIGHEN: We will appoint men of such a class that they will be petitioning for reductions all the time.

The CHAIRMAN: I am afraid you are an optimist. We will say the draft is all right. Perhaps the principle is not. We are not passing on the measure, we are simply seeing that the Bill is in shape to be intelligently discussed.

Section 9:—

When the Governor in Council shall proclaim in the *Canada Gazette* that he has vacated all nominations to the Board of Directors of the National Company and has appointed Trustees as by section 4 of this Act provided the said Board shall cease to exist and, by force of this Act and without more, the direction and control of the National Company and its undertaking shall be vested subject to the provisions of this Act, in the Trustees.

I was going to ask about the fact that the only notice that the directors will get will be an advertisement in the *Canada Gazette*. Maybe there is nothing in that.

Hon. Mr. DANDURAND: They will receive a cheque?

The CHAIRMAN: Will they get no notice?

Hon. Mr. DANIEL: What is the meaning of the expression "and without more?"

Right Hon. Mr. MEIGHEN: That is a legal expression, and it means, if I may paraphrase, "and without the necessity of anything further being done." Those words have a well known legal meaning.

The CHAIRMAN: Subsection (2):—

The Trustees shall and may thereafter, subject to the provisions of this Act, have and exercise all the powers, rights, privileges and immunities, and perform and be subject to all the duties, responsibilities and restrictions, which now appertain to the board of directors of the National Company.

Subsection (3):—

At the same time, by the same force and without more the Trustees shall become and be Trustees in the place and stead of every board of directors of every company in Canada which is comprised in the undertaking of the National Company and they may and shall, thereafter,

subject to the provisions of this Act, have and exercise with relation to such Companies, respectively, the like powers, rights, privileges and immunities, and perform and be subject to the like duties, responsibilities and restrictions as those already in this section provided for in relation to the National Company.

Hon. Mr. CALDER: Sometimes the Bill says "they shall"; sometimes it says, "they shall and may"; then again it says, "they may and shall." What is the difference in meaning of all these expressions?

Right Hon. Mr. MEIGHEN: I do not know that very much hangs on them. The explanation is that "may" is the empowering word; "shall" is the directing word.

Hon. Mr. CALDER: In the second line you say they "shall become." You would not use "may" there?

Right Hon. Mr. MEIGHEN: They are not empowered to become, but they do become. It is automatic. That is the right word there. But if you are empowering the Governor in Council to do something, you use the word "may."

Hon. Mr. CALDER: In the fifth line you say "they may and shall, thereafter, subject to the provisions of this Act."

Right Hon. Mr. MEIGHEN: First we say they shall be in office. They are put right into office. Next we say they may have certain powers; then we say they shall exercise those powers. I think the right words are used.

Subsection (4):—

No order, regulation, Act, decision, or proceeding of the Trustees shall require the approval of any shareholders of any Company in Canada comprised in the undertaking of the National Company or of His Majesty.

Right Hon. Mr. MEIGHEN: That is all right.

Hon. Mr. MURDOCK: I wonder if I may digress for a moment, Mr. Chairman? I have just had a note handed to me which reads:—

To aid the Senate Committee in expediting their hearings, Labour will be prepared to appear before them next week. Can you have the committee give us a positive date?

The CHAIRMAN: Next Thursday morning at 10.30.

Right Hon. Mr. MEIGHEN: Mr. Chairman, if I may, I will now propose for mere drafting purposes that the following be added as subsection 5 to section 9:—

(5) Subject to the terms of this Act, and until otherwise provided or directed under its authority, every operation and service of the National Company and its undertaking shall continue and be continued by all persons now concerned therewith as if this Act had not been passed.

That is to say, until under this Act a president is appointed the existing president shall continue to exercise full power, so that in the meantime there will be no hiatus. For example, immediately the *Canada Gazette* is published containing the nomination of the trustees the present directors are out, and the powers vested in the president are gone. Immediately those trustees are appointed the president cannot act except in pursuance of the authority which those trustees gives him. It will take the trustees some time to frame the authority, and it would be too bad if he had no authority in the meantime. This additional subsection merely provides for the continuance in office of the persons now concerned therewith until those who under this Act are appointed take their place.

Hon. Mr. GRIESBACH: There is no interregnum.

Right Hon. Mr. MEIGHEN: Yes. The other Bill did not provide for that at all.

The CHAIRMAN: Mr. Anderson has made a statement to me about one of these sections. Perhaps he will explain his point.

Mr. P. M. ANDERSON (Assistant Counsel, Department of Railways and Canals): My point is with reference to the use of the term "National Company" as defined. In section 6 the trustees are to be paid by the National Company. I presume that means that they will be paid by all companies comprised in the undertaking. Then in section 9 there is reference to the "National Company and its undertaking" and to "the undertaking of the National Company." Where the term "undertaking of the National Company" is used it excludes the Canadian Northern Railway, for instance, and the other companies referred to in the Canadian National Railway Act. Subsection 3 is the particular subsection to which I direct attention, and subsection 1 also uses the words.

Right Hon. Mr. MEIGHEN: You mean that subsection 3 does not need to go so far? I think it does.

Mr. ANDERSON: Subsection 3 reads:—

At the same time, by the same force and without more the trustees shall become and be trustees in the place and stead of every Board of Directors of every company in Canada which is comprised in the undertaking of the National Company.

Now, the "undertaking" is defined.

Right Hon. Mr. MEIGHEN: Yes; and the "National Company" is defined. But this must be every company in Canada that is comprised within it.

Mr. ANDERSON: Would it not be in the National Company, which includes "undertaking"?

Right Hon. Mr. MEIGHEN: No, it does not include undertaking.

Mr. ANDERSON: "National Company" is defined, I understood, to include its undertaking, and "undertaking" is defined subsequently.

Right Hon. Mr. MEIGHEN: "National Company" includes every company comprised in its undertaking; it does not include the undertaking.

Mr. ANDERSON: Yes. Then "undertaking" is defined. So every company in the National Company as defined would be included in the term "National Company".

Right Hon. Mr. MEIGHEN: Included in the term "undertaking".

Subsection 3 reads:—

At the same time, by the same force and without more the trustees shall become and be trustees in the place and stead of every Board of Directors of—

Of what?

—of every company in Canada which is comprised in the undertaking of the National Company.

"National Company" includes:—

Every company comprised in its undertaking.

That is true; but we restrict the various companies embraced in the whole National System which comes under the purview of this clause to those in Canada. I cannot see how there can be any misconception.

The CHAIRMAN: Well, this clause as redrafted is all right.

Now, section 10:—

The trustees shall appoint, on terms to be fixed by them, and with the titular rank of president, a person other than one of themselves to execute and perform, under and in consultation with them, the powers, authorities and duties of chief operating officer of the undertaking of the National Company, as such powers, authorities and duties shall be from time to time defined by by-law or resolution of the trustees and committed for execution and performance. The president shall report and be responsible to the trustees and to them alone.

Is the drafting all right?

Hon. Mr. GRIESBACH: What significance is to be attached to the word "committed"?

Right Hon. Mr. MEIGHEN: Committed for execution and performance. It is not a very usual word, although I have seen it in statutes.

I am going to suggest for still greater caution as to the interregnum the insertion of the following as subsection 2 of this section 10:—

Until the Trustees shall have appointed, defined and committed as in this section provided the person who is now charged, whether or not exclusively, with the powers, authorities and duties of chief operating officer of the National Company and its undertaking, shall and may continue to execute and perform such powers, authorities and duties.

The CHAIRMAN: Does the drafting convey the idea that we have in mind?

Some Hon. MEMBERS: Carried.

The CHAIRMAN: Section 11: —

Meetings of the Trustees may be held at such times and places as they may from time to time determine.

(2) The Trustees may decide or act at meetings only by unanimous vote or by majority which includes the Chairman. They or a majority so formed may without meeting decide or act by way of minutes or concurrence written and signed by them or by such majority.

Hon. Mr. CALDER: The phrase "by way of minutes or concurrence written" would, I suppose, include a telegram?

Right Hon. Mr. MEIGHEN: Yes, I think that has been held to be so.

Hon. Mr. GRIESBACH: What has become of the section that the Chairman shall always be of the majority?

Right Hon. Mr. MEIGHEN: This is it, but much briefer.

Hon. Mr. COPP: With regard to section 11, I should think that the chairman of the trustees should call the meetings.

Right Hon. Mr. MEIGHEN: I am inclined to agree with that.

Hon. Mr. DANDURAND: Would that not be covered by regulations?

Right Hon. Mr. MEIGHEN: I think their chairman should be given the statutory power to call meetings.

The CHAIRMAN: I think the object in giving them authority to act by way of minutes or written concurrence is that they may be enabled to deal with minor matters in that way, if necessary.

Hon. Mr. BEAUBIEN: If only the chairman had power to call meetings, what would happen if he were sick or absent for a time? How could meetings be called then?

Hon. Mr. CALDER: There would be an acting chairman.

Right Hon. Mr. MEIGHEN: We have not provided for temporarily filling the place of the chairman if he is incapacitated. It would be a very simple thing

to make such a provision, if the committee thinks it ought to be done. I do not know whether it should be done or not. As the Bill now stands, no one can take the place of the chairman during his period of office.

Hon. Mr. McRAE: The Bill provides that the chairman must be one of the majority that decides questions. If the chairman does not act, how can the trustees proceed with business?

Right Hon. Mr. MEIGHEN: And who would decide whether the chairman was incapacitated? It could be provided that the president of the Exchequer Court would have the power to make that decision.

Hon. Mr. McRAE: The logical thing would be to provide that the senior trustee should act as chairman, in case of the absence of the chairman.

Right Hon. Mr. MEIGHEN: But it is not the genius of the report to give the final power to anyone other than the one man who is on the job all the time. And if he is ill and not able to confer with the other trustees, decisions cannot be made, according to the present Bill.

Hon. Mr. BEAUBIEN: Suppose the chairman is absent when there is routine work to be done?

Right Hon. Mr. MEIGHEN: He could give his concurrence by telegraph.

Hon. Mr. BEAUBIEN: But the other two trustees could not even call meetings to go on with routine work. The whole machinery would be stopped if the chairman went away.

Right Hon. Mr. MEIGHEN: Anything decided upon by the other trustees would take effect when ratified by the chairman.

Hon. Mr. BEAUBIEN: The other trustees can get together but they cannot have an official meeting.

Hon. Mr. McRAE: Is it proposed that the chairman shall not have a vacation for seven years?

Right Hon. Mr. MEIGHEN: Of course, it must be remembered that the trustees' duties are supervisory, not operating duties. The members of the Commission seem to have felt that no one other than the chairman should have the deciding and final power. It does not seem to be vitally important that we should not provide for an acting chairman in case of incapacitation of the chairman.

Hon. Mr. DANDURAND: I suppose one of the trustees could resign?

Right Hon. Mr. MEIGHEN: Yes. Anybody can resign, even a senator.

Hon. Mr. CALDER: Why not give the Governor in Council power to appoint a temporary chairman in case the chairman is incapacitated?

Right Hon. Mr. MEIGHEN: If it is thought that the chairman is incapacitated, should not representation be made to the president of the Exchequer Court?

Hon. Mr. DANDURAND: Unless some solution is found for the difficulty that has arisen, would it not be better to leave the section as it is? The trustees could decide among themselves as to procedure.

Hon. Mr. CALDER: Perhaps it would be better to provide simply that the trustees shall make regulations with regard to their meetings.

Right Hon. Mr. MEIGHEN: We could meet the point raised by Senator Copp by providing that meetings of the trustees may be held at such times and places as they or their chairman may from time to time determine. It is not necessary for us to provide for everything just now, but if the committee feels we should make some provision to cover a case of incapacitation of the chairman, I would make this suggestion. I do not think it should be left solely to the Governor in Council to decide whether the chairman is incapacitated. The chairman may not be doing what they would like him to do and

therefore they may decide he is incapacitated and, under the exercise of arbitrary powers, appoint a successor. I think the spirit of the Bill would be carried out if it were provided, in the same language as is used elsewhere, that if it is made to appear to the president of the Exchequer Court, on the application of the other members of the board of trustees, that the chairman is unable to act, then the president of the Exchequer Court may communicate his decision to the Clerk of the Privy Council, whereupon the Governor in Council may appoint a successor, either from the remaining trustees or elsewhere, to act in place of the chairman. Or the whole thing could be covered in this way: the president of the Exchequer Court could declare that a vacancy has occurred, under a certain section of the Act, and the provision for selection of a successor from a panel would then become operative.

The CHAIRMAN: Perhaps we can work out some section to cover that before we meet again. Is it your pleasure, gentlemen, that a clause be drafted in accordance with the discussion that has just taken place?

Some Hon. SENATORS: Carried.

Hon. Mr. DANDURAND: Tentatively.

The CHAIRMAN: Section 12:—

The annual budget of the National Company and its undertaking shall be under the control of the Trustees. Amounts required for income deficits, for interest on obligations outstanding in the hands of the public, for capital expenditures and for refunding or retirement of maturing securities shall be submitted by the Trustees to the Minister of Finance for the consideration of the Governor in Council prior to presentation to Parliament. Income deficits shall not be funded. Amounts provided by Parliament to meet capital expenditures shall not be diverted to cover deficits in operation unless with the express authority of Parliament.

Is that drafting all right? Carried.

Section 13:—

A continuous audit of the accounts of the National Company and its undertaking shall be made by independent auditors appointed annually by Parliament and annually reporting to Parliament in respect of their audit. Their annual report shall call attention to any matters which in their opinion require consideration or remedial action. They shall be paid by the National Company such amounts as the Governor in Council shall from time to time approve.

(2) Notwithstanding anything in this Act contained the now existing auditors of the National Company shall continue in office and perform their duties as such with relation to that Company and its undertaking until their successors have been appointed under this Act and have commenced to perform their duties.

If they should refuse I suppose other men could be appointed to take their place?

Right Hon. Mr. MEIGHEN: Oh, yes.

The CHAIRMAN: Section 14:—

The Trustees shall make a report annually to Parliament setting forth in a summary manner the results of their operations, the amounts expended on capital account in respect of railways, works, property, facilities and services comprised in the undertaking of the National Company and such other information as appears to them to be of public interest or necessary for the information of Parliament with relation to any situation existing at the time of such report, or as may be required from time to time by the Governor in Council.

Is that all right?

Hon. Mr. CALDER: The purpose of this Bill is to secure economy. Do you not think that we should have in that report some indication, at least, of what has been accomplished through co-operation?

Hon. Mr. BEAUBIEN: That is administration.

Hon. Mr. CALDER: Or must they be specially directed? If economy is the object of the Bill, why should we not know what is accomplished?

The CHAIRMAN: Would it be covered by the latter part of the section?

Hon. Mr. CALDER: It could come in there.

Right Hon. Mr. MEIGHEN: You could say "such other information, including information as to economies effected by co-operation with the Pacific Company."

Hon. Mr. CALDER: I think it should go in somewhere.

Hon. Mr. GRIESBACH: They would not be expected to give an opinion as to operation, for instance, would they?

Hon. Mr. DANDURAND: "The Trustees shall make a report annually to Parliament setting forth in a summary manner the results of their operations." Is not that wide enough?

Hon. Mr. CALDER: That refers to revenues, does it not?

Hon. Mr. DANDURAND: But they always have a statement showing the comparison with the preceding year.

Hon. Mr. CALDER: The whole purpose of this Bill is to effect economies through co-operation, and it strikes me that the trustees should be required to report specifically, setting forth the results of their co-operative efforts.

Hon. Mr. LAIRD: That is what everybody will want to know.

Hon. Mr. CALDER: That is what we will want to know. It would not be difficult. For example, they could say that during the year so many express offices had been closed or made available to the other company. The same would be true of telegraph offices, terminals and abandoned tracks.

Right Hon. Mr. MEIGHEN: We can include in the draft, after the word "information" the words "including information as to economies effected under Part 2 of this Act by co-operation with the Pacific Company."

Hon. Mr. CASGRAIN: Carried.

Hon. Mr. LAIRD: Would that include also economies effected by the Pacific Company?

Right Hon. Mr. MEIGHEN: No. They could not report on that.

The CHAIRMAN: Is it your pleasure that the words suggested by Senator Meighen be inserted?

Hon. Mr. CASGRAIN: Carried.

The CHAIRMAN: Section 15:—

The annual reports of the trustees and the auditors, respectively, shall be submitted to Parliament through the Minister of Railways.

Hon. Mr. CASGRAIN: O.K.

The CHAIRMAN: Part II:—

Hon. Mr. McRAE: Before starting on Part II, there is one matter that I think is worthy of attention. The trust imposed in the trustees under this Bill is a very considerable one, and it seems to me that there might well be a clause in the Bill stating that the trustees shall not act as directors of any other corporation. Such relationships are rather far-reaching and might not be for the benefit of those interested.

Right Hon. Mr. MEIGHEN: Would it be sufficient to confine that restriction to the Chairman?

Hon. Mr. McRAE: I think it would be.

The CHAIRMAN: The others are only part-time men.

Hon. Mr. McRAE: In the past we have heard some remarks about the action of certain men in accepting directorships.

Hon. Mr. LAIRD: There is just one thought that suggests itself to me in that connection. I understand that one of the advantageous features of the present board of directors of the Pacific Company is that they are drawn from among men of wide business connections, and are thereby supposed to control traffic. That was one of the arguments used to support the idea of a larger Board of Directors for the Canadian National Railways. I understand that in many cases the selections have been made with that end in view. The Directors of the Canadian National Railways are men who have large interests and control large traffic. If you are going to debar men of that type from becoming trustees the National Company would suffer in comparison with the Canadian Pacific, whose policy it is to select their directors with a view of their drawing traffic to the system. So before deciding on that principle it might be well to keep that idea in view. If you are going to appoint trustees who control no traffic and have no interests in the company, you are thereby going to deprive the National Company of valuable contacts that the opposition company has.

The CHAIRMAN: Suppose you confine that to the Chairman, would not that remove your objection?

Right Hon. Mr. MEIGHEN: We will draft a clause for submission to the Committee later confining it to the Chairman.

Hon. Mr. DANDURAND: This thought passed through my mind. You want to free a man from the temptation of serving two masters—himself and the company. A man may be a very large shareholder, and the fact is not apparent; but his directorship is. As between the two, I would rather see a very large shareholder as a director, because I would know right away that he is interested in the company; I would not know otherwise.

Hon. Mr. CALDER: Where are you going to get big enough men who are not directors? The Chairman is to be appointed for a period of seven years only. If the Government can secure a railway man who all his life has moved in railway circles, and has not been entangled in business directorships, it might be well and good, but we must presume that the Government will have to go outside railway circles. The chances are that the man they want will be a director in a dozen companies. You say to him: You must drop all your directorships and serve us for seven years only. You may have difficulty in getting the right man.

Hon. Mr. DANDURAND: And you ask him to dispose of his interests in his company. It comes to the same thing.

The CHAIRMAN: We will discuss it when the new clause is drafted. That will be 14.

Now, Part II:—

CO-OPERATION BETWEEN THE NATIONAL COMPANY AND THE PACIFIC COMPANY

16. The National Company and the Pacific Company, for the purpose of effecting economies and providing for more remunerative operation are directed to attempt forthwith to agree and continuously to endeavour to agree upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes.

Right Hon. Mr. MEIGHEN: That is very much briefer.

Hon. Mr. CALDER: They are directed to attempt now.

Right Hon. Mr. MEIGHEN: And to continue to attempt.

The CHAIRMAN: Now, subsection 2:—

Without restricting the generality of the foregoing, any such measures, plans or arrangements may include and be effected by means of—

- (a) New companies controlled by stock ownership, equitably apportioned between the companies;
- (b) Leases, entrusting agreements, or licences, or agreements for the pooling and division of earnings arising from the joint operation of any part or parts of freight or passenger traffic, or express, telegraph, or other operating activities or services.
- (c) Joint trackage, running rights, joint ownership, or joint operating agreements, depending upon the nature of the property or services included in any co-operative plan; and
- (d) Joint or individual highway services, or highway and railway services combined, in any form.

Hon. Mr. LAIRD: Mr. Chairman, in line forty of section 16 you will notice the words:—

to endeavour to agree upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted—

Who is going to be the judge of what plans are fair and reasonable and best adapted?

Right Hon. Mr. MEIGHEN: Themselves; and if they fail, the Tribunal.

Hon. Mr. LAIRD: Would it not be wise to put in "in their opinion"? Others interested might declare that those plans and arrangements were not fair and reasonable.

Right Hon. Mr. MEIGHEN: They are directed to agree as to what is fair and reasonable. I think these words should go in also so as to make the section read in this way:

Are directed to attempt forthwith to agree and continuously endeavour to agree, and are hereby authorized to agree, upon such co-operative measures, plans, and arrangements as are fair and reasonable.

We do not say, "as in their opinion are fair and reasonable," because if there was a dispute it would be about what was fair and reasonable in their opinion. The dispute must be, not as to what is their opinion, but what is fair and reasonable.

Hon. Mr. LAIRD: Whose opinion as to what is fair and reasonable is to govern?

Right Hon. Mr. MEIGHEN: Finally, the Arbitral Tribunal.

The CHAIRMAN: If they cannot agree the matter goes to the Tribunal.

Hon. Mr. COPP: I would suggest insertion of the words "are directed and hereby authorized to attempt forthwith."

Right Hon. Mr. MEIGHEN: That would be "authorized to attempt and endeavour." That is just what struck me, senator. They should be authorized to agree so the agreement would be made.

The CHAIRMAN: Shall we insert those words, "and are hereby authorized to agree"? They would be inserted after the words "to endeavour to agree" at the end of line 38.

Hon. Mr. CALDER: What has happened to the old provision with regard to their co-operating for the purpose of meeting competition?

Right Hon. Mr. MEIGHEN: The old provision contained a whole lot of things that they were directed to effect by co-operation. But that only restricted co-operation. Here we say:

You are authorized to agree on any measures, plans and arrangements that are fair and reasonable and best adapted to effect the purposes.

What purposes?

The purposes named in the first part of the section: For effecting economies and providing for more remunerative operation.

Then subsection 2 comes in:—

Without restricting the generality of the foregoing, any such measures, plans or arrangements may include and be effected by means of—

Then if you look at clause (d):

Joint or individual highway services, or highway and railway services combined in any form.

Hon. Mr. GRIESBACH: Is water transportation covered?

Right Hon. Mr. MEIGHEN: That is covered by "facilities." It is part of the undertaking.

Hon. Mr. CALDER: They are now in the air service?

Right Hon. Mr. MEIGHEN: The charter gives them that right.

The CHAIRMAN: Subsection 3 of section 16:

All or any of such measures, plans and arrangements may, if agreed to by the parties, be made terminable at will, or on or after stated notice, or for a fixed period or periods or any combination thereof, and may from time to time on similar agreement be changed, altered, varied, amended or renewed, as may be considered expedient in the best interest of the parties or in view of changing conditions, and the better to effect the purpose hereinbefore in this section set out.

Right Hon. Mr. MEIGHEN: The word "purpose" near the end of that subsection should be put in the plural. It is in line 24.

The CHAIRMAN: Is it your pleasure to make "purpose" plural—"purposes"?

Some Hon. MEMBERS: Carried.

The CHAIRMAN: If I remember correctly, yesterday someone raised the question about "changing conditions," that it might give power to increase expenditures on account of existing conditions.

Right Hon. Mr. MEIGHEN: No, it has to be "the better to effect the purposes hereinbefore set out."

The CHAIRMAN: Subsection 4:—

Hon. Mr. MURDOCK: Mr. Chairman, before you read that subsection, I desire to propose that that section be numbered 5 and that the following be inserted as section 4:—

Shall
conserve and
protect
employees'
rights and
years of
faithful
service
where
possible.

In all cases where joint operation or consolidation are the result of co-operation ordered and made effective, the rights and the years of faithful service of employees affected by the application of this section shall be in so far as it may be possible, equitably conserved and allocated as between the employees of the National Company and the Pacific Company.

Maybe the Chairman will tell me that I am out of order in bringing this up, but I want to say that we are dealing here with cars, locomotives, tracks and everything incidental to the proper operation of a railroad, except the human

element involved. Yet surely that human element should be regarded as paramount to many other things. There does not seem to be a single clause in the Act directed towards the conservation of interests of the employees who, as individuals, may be more seriously concerned with the application of this legislation than will any other citizens of Canada. I do not want to press this matter now, of course, if it is out of order, although I hope to do so somewhere later. I shall hand a copy of my proposed amendment to the Chairman and Senator Meighen, and I think that the matter should be given some consideration. The employees are, I imagine, uncertain as to what, if anything, they can do to protect themselves against a possible avalanche of misfortune headed in their direction. I do not think I exaggerate when I say that hundreds of our citizens who have staked their all in the profession—if it is a profession—of railroading, for a long or short term of years, are liable to lose everything by the application of certain provisions of this Act. Railroad employees realize that some things cannot be done, but they think, as I think, that there should be somewhere in this Act a friendly gesture towards the conservation of the rights that they have obtained after years of effort. It appears to me that in subsection 4 of section 16 of the Bill there should be some provision that the interests of the employees shall be always before the trustees of the Canadian National and the directors of the Canadian Pacific.

Right Hon. Mr. MEIGHEN: I am not rising to oppose the motion, nor to object that it is out of order. In fact, I may never oppose it; I shall have to study it before I come to a decision. But may I make this observation? The purpose and spirit of this Bill is to secure economies on the railway systems. It is not the purpose to take away any rights that any employees may have. Perhaps the end that Senator Murdock has in view might be appropriately attained at this time by a provision that nothing in this Act shall be held to disentitle either company from making such provisions as it heretofore had power to make with regard to employees, nor to impair in any way the authority of the Railway Commission under the Railway Act, in the same matter. Such a provision would be entirely consistent with the intent of the whole Bill.

Hon. Mr. MURDOCK: Will you pardon me, Senator Meighen, if I make a further statement? Without intending to do the slightest harm to railway employees, we are proposing to enact a measure that will be of vital concern to them, a measure that would, in effect, deprive many of them of all that they have. Under conditions that have prevailed in the past in this country, there would be no thought of the adjustment of the rights as between one class of employees and another where, let us say, terminals were consolidated. Suppose after this Bill is passed there were a consolidation of terminals in a number of places. In some places the Canadian Pacific terminals would be jointly used in the future, and adjacent Canadian National terminals would be abolished. In other places it would be the Canadian National terminals that would be chosen for joint use. Now, under past practice the Canadian Pacific employees would get the preference when a Canadian Pacific terminal was chosen, and Canadian National employees would get the preference in other cases. Have we any right to give in this Act a direction to trustees and those in authority as to what, if any, allocation should be made between employees under these conditions?

Right Hon. Mr. MEIGHEN: That is, of the work that would be left?

Hon. Mr. MURDOCK: Yes, of the work to be done in the joint terminals. A joint terminal would be paid for by the National Company and the Canadian Pacific Company, but if that terminal had formerly been operated by the Canadian Pacific the Canadian National employees would, under past practice, not be taken on there. They would suffer simply because the Canadian Pacific Company's right of way, tracks, round houses, and so forth, were considered

better suited, in that particular place, for the joint use of both roads. My proposal is merely suggestive. I am sure the employees would still hope that they would have the right to negotiate with a view to arriving at equitable conclusions, but it seems to me that they will be very badly handicapped unless this committee should give an indication of what should be done.

The CHAIRMAN: Suppose, Mr. Murdock, that we take this as a notice of motion—although it is not needed—that you are going to bring up this matter when we discuss the merits of the Bill.

Hon. Mr. MURDOCK: All right.

Hon. Mr. GRIESBACH: It should be redrafted.

Hon. Mr. FORKE: Mr. Chairman, this Act is drafted in the interests of economy. Is there any thing in it to provide that the public shall get adequate service in relation to the economy that is going to be practised?

Right Hon. Mr. MEIGHEN: Oh, yes. You must remember that for some years past the railways have been at liberty to co-operate without being specially directed to do so. But they have not done it. If, in effecting economies, the public service were not adequately provided for, the powers of the Board of Railway Commissioners would be called into play. They will be called into play here. Suppose the two railways agree on something, as they are authorized to do, the public can appeal to the Railway Commission just as they have done in the past. But suppose they go further, and apply to the tribunal. It is immediately in the mind of every member of the committee that the decision of the tribunal overrides that of the Railway Commission. But the public interest is safe, because the chairman of the tribunal may at his discretion call for public hearings before making an order.

Hon. Mr. FORKE: Thank you.

The CHAIRMAN: Subsection 4:—

It shall be the duty of the National Company and the Pacific Company, and they are hereby required, to meet by their proper officers forthwith and from time to time as they may agree, to discuss and to effect by agreement, if possible, the purposes set forth in this part of this Act. The proper officers of the National Company for the purposes of this subsection shall be the Trustees by themselves and/or such of the National Company's officers as the Trustees may name for the purpose, and the proper officers of the Pacific Company shall be the Directors and/or such of the Pacific Company's officers as the said Directors may name for the purpose.

Right Hon. Mr. MEIGHEN: This wording is much improved and more complete. The other did not cover the case at all.

The CHAIRMAN: Part III, Section 17:—

Arbitral Tribunals, constituted in manner hereinafter described, shall be erected as and when required for the purposes of this Act.

(2) An Arbitral Tribunal shall have power and jurisdiction to settle and determine the dispute, between the National Company and the Pacific Company which it was erected to dispose of. It shall have power and jurisdiction also to determine the conditions of, and interpret and enforce all such measures, plans or arrangements as have been agreed upon or made between such companies pursuant to Part II of this Act, whether or not such agreement was in consequence of an order of an Arbitral Tribunal.

Right Hon. Mr. MEIGHEN: This is entirely new. The old Bill did not provide at all for any difficulty that might arise in the execution of an agreement arrived at between the companies.

Hon. Mr. GRIESBACH: Should not the word "dispute" be in the plural?

Right Hon. Mr. MEIGHEN: No, I think not. The Interpretation Act provides for the plural wherever it is necessary.

The CHAIRMAN: Subsection 3:—

Without restricting the generality of the foregoing power and jurisdiction of Arbitral Tribunals shall extend to disputes as defined by this Act, relating to measures, plans and arrangements for proposals therefor which concern—

- (a) joint use of terminals;
- (b) running rights and joint use of tracks where there are actual or functional duplications, or where such may be avoided;
- (c) control and prohibition in respect of the construction of new lines and provision of facilities and additional services where no essential need of the public is involved, or where the result would be in the main the division of traffic already adequately provided for;
- (d) joint use of facilities where this would promote economy or permit the elimination of duplication or unremunerative services or facilities;
- (e) abandonment of lines, services or facilities;
- (f) pooling of any part or parts of freight traffic or of passenger traffic;
- (g) things necessarily incidental to the above enumerated matters.

Hon. Mr. CASGRAIN: Carried.

The CHAIRMAN: Subsection 4:

No Arbitral Tribunal shall have power or jurisdiction to order the construction of extensions and additions to existing railway lines, terminals or facilities except in such minor matters as connections to give access to existing lines, terminals or facilities which by order of any Arbitral Tribunal or otherwise, are used or are intended to be used in common.

Hon. Mr. CALDER: What is the position there in relation to Parliament? The Board sends in the annual budget under which capital expenditures are provided for. As I see it, those capital expenditures cannot be made under the Bill unless the co-operative board agrees to them. If it does not agree the question will have to go to the tribunal. But Parliament has already considered the matter and approved of it. Nevertheless, either party may say to the other "You should not go ahead."

Right Hon. Mr. MEIGHEN: That is quite all right. That is as I think it should be.

Hon. Mr. CALDER: Then the chairman will override the will of Parliament.

Right Hon. Mr. MEIGHEN: Parliament will provide the money to the road when it sees fit. It does that to-day, but the railway does not have to use the money. All that Parliament says is that if in the judgment of the company it is advisable to do a certain thing, the money is there for the purpose. There is nothing humiliating to Parliament in that. If the Canadian Pacific were to say that something was not necessary, that the service could be rendered later on quite as effectively and without any hardship resulting in the meantime, or that the desired end could be attained by union under certain terms, and were to ask for a tribunal, I think Parliament would feel quite all right about it. The money would be saved.

Hon. Mr. CALDER: It would be a rather anomalous position. The company comes here and submits their bill to the House of Commons; it goes before a committee, and all parties are heard; then it is decided that the road should be constructed.

Right Hon. Mr. MEIGHEN: Oh, no. All that the House of Commons does is to decide that it is ready to provide the money.

The CHAIRMAN: Section 18:—

The Chief Commissioner of the Board of Railway Commissioners for Canada shall be the presiding officer of all Arbitral Tribunals. The National Company and the Pacific Company shall each appoint a representative, and the representative so appointed with the presiding officer shall constitute the tribunal for dealing with the dispute to be disposed of. At the request of either the National Company or the Pacific Company, or both, the President of the Exchequer Court of Canada may, upon it being made to appear to him that the matter is one of sufficient importance, appoint two additional members for the occasion.

Hon. Mr. GRIESBACH: In line 30 should it not read "the representatives so appointed"?

Right Hon. Mr. MEIGHEN: Yes. It should be plural, I think.

The CHAIRMAN: That is page 7, line 38.

Right Hon. Mr. MEIGHEN: I suggest that in line 43 the word "dispute" should be used instead of the word "matter", and that the last phrase should read "appoint two additional members for its decision".

The CHAIRMAN: Subsection 2:—

The powers of the Arbitral Tribunal may be invoked by either company by written application to the Chief Commissioner setting forth in a concise and summary way the subject matter of the dispute. The name of the representative of the company making the application shall be notified to the Chief Commissioner concurrently with the making of the application. A copy of the application shall forthwith be sent to the other company with a request for the appointment of its representative, and such company shall nominate its representative within ten days from the date of receipt of the copy of said application.

Some Hon. Members: Carried.

The CHAIRMAN: Subsection 3:—

In the event of failure of the other company to appoint a representative the tribunal may proceed to consider and determine the subject matter of the application, and the decision of the two members of the tribunal shall be binding upon both companies. The presiding officer may, however, in his discretion, appoint a person to represent the company so failing to appoint its representative.

Hon. Mr. MURDOCK: That should make them jump.

Right Hon. Mr. MEIGHEN: That is infinitely simpler than the old provision, which provided that he should ask the Exchequer Court to appoint a man. If the other company fails to appoint a man, why should not the Chief Commissioner do it himself at once?

Hon. Mr. ROBINSON: What is meant by "the two members of the tribunal"?

Right Hon. Mr. MEIGHEN: If one side did not appoint a representative there would be only two.

The CHAIRMAN: Subsection 4:

In the event that a representative of either company is unable or unwilling, or neglects or refuses to act or to continue to act, a successor may be appointed by the company he represents or by the presiding officer, in the event of a failure so to appoint, or the Tribunal may, by direction of the presiding officer, proceed to consider and determine the matter or thing in dispute, notwithstanding the inability, unwillingness, neglect, or refusal to act of such representative.

Right Hon. Mr. MEIGHEN: That too is much simpler.

The CHAIRMAN: It covers the ground?

Right Hon. Mr. MEIGHEN: Oh, yes.

The CHAIRMAN: Subsection 5:—

The Chief Commissioner may of his own motion or at the request of the National Company or the Pacific Company or both, reconvene any Arbitral Tribunal to settle or determine any dispute which relates to the conditions, interpretation or enforcement of any order made by that particular Tribunal, and such reconvened Tribunal shall have power and jurisdiction to settle or determine in the premises.

Right Hon. Mr. MEIGHEN: That is entirely new.

Hon. Mr. GILLIS: Is that in the event of the other Company not asking to have anything done?

Right Hon. Mr. MEIGHEN: No. Suppose that a big dispute is settled by an arbitral tribunal appointed for the purpose, and that when the terms of settlement come to be carried out one company says they mean one thing and the other company that they mean something else. This provides that the whole tribunal can be reconvened to decide the question. There is no need to establish another tribunal.

Hon. Mr. SHARPE: Should not the tribunal have power to act in case the parties decided to do nothing at all?

Right Hon. Mr. MEIGHEN: That is quite a big question. The report made no such recommendation, and the Act does not give any power of initiation to the tribunal. The Commission has not recommended that we should go so far as to give power to the Chief Commissioner to initiate economies which the roads themselves have not effected. We may have to come to that yet.

The CHAIRMAN: It may be necessary when you come to work out this Bill to make several changes in order fully to accomplish the object that the Commission had in view.

Hon. Mr. GILLIS: Could not that power be restricted in a certain sense so that they would not act except under exceptional conditions?

Right Hon. Mr. MEIGHEN: It would be pretty difficult. It is a very radical step that you have in mind.

The CHAIRMAN: Subsection 6 of section 18:—

The National Company and the Pacific Company shall pay all reasonable fees and expenses of the members of the Arbitral Tribunal appointed by them or by the presiding officer in equal shares or in such proportions as shall be directed by the presiding officer. The fees and expenses of the hearing and of witnesses and experts appearing before the Tribunal shall be such as are allowed by the presiding officer, and shall be paid either by one company or by the two companies in such proportions as he shall direct.

Some Hon. MEMBERS: Carried

The CHAIRMAN: Section 19:—

If, in the opinion of the presiding officer of any Tribunal, any application made to him raises matters of substantial concern to the public or a section of the public, he may direct that notice of the sittings of the Tribunal shall be given either by advertisements in one or more newspapers, or otherwise as he may consider expedient, and may permit representations to be made at said sittings by such person or bodies, including the Government of Canada or of any of the provinces of Canada, as in his opinion should be heard.

HON. MR. MURDOCK: Mr. Chairman, are we not by this section giving too much latitude to the opinion of one man? For example, if the proposal before the Arbitral Tribunal was to abandon a branch line, the public along that branch line would be very much concerned and they would desire to have an opportunity of saying publicly what they thought should or should not be done; but there would be no public hearing unless in the opinion of the Chairman of the Arbitral Tribunal the matter was of sufficient public importance.

Then may I bring forward another part particularly in order to get Senator Meighen's view of it. In section 17 of part III I find enumerated in clauses (a), (b), (c), (d), (e) and (f) of subsection 3 the questions which the Arbitral Tribunal are empowered and expected to deal with. Then as all too often happens, we find clause (g):—

Things necessarily incidental to the above enumerated matters.

Then I direct attention to the first three lines of section 19:—

If, in the opinion of the presiding officer of any Tribunal, any application made to him raises matters of substantial concern to the public or a section of the public—

That is rather broad. I have in mind the Conference which developed last year relative to a ten per cent reduction of wages, and which affected the two great railways from the Atlantic to the Pacific. No doubt the men may be concerned in a rediscussion of that matter, for it might develop at any time. Would the provisions of the Industrial Disputes Investigation Act be superseded by Article 2 of this Act?

Right Hon. MR. MEIGHEN: Article 2?

Hon. MR. MURDOCK: Article 2.

The provisions of this Act shall prevail over all inconsistent provisions of all other Acts,—

Then clause (g) of subsection 3 of section 17 reads:—

things necessarily incidental to the above enumerated matters.

Now, the matter of compensation to employees of all classes is incidental to the operation or the pooling of terminals or whatnot. But section 19 leaves it entirely to the judgment of one man to say,—what? Whether it is even a matter of sufficient concern to have a public hearing, or to decide, let us say,—I am simply putting this as a question—to decide that there shall be ten, fifteen or twenty per cent reduction in wages. I am just wondering how far you could go under the three parts of this Bill.

Right Hon. MR. MEIGHEN: Well, Senator, I do not think that the question of wage reduction would be considered something “incidental to the above enumerated matters,” in the sense that it would enable the tribunal to effect a reduction or in any way to override the provisions of the Industrial Disputes Investigation Act. Not only do I think it would not be so, but I would be willing to accept any amendment saying that it was not so.

Hon. MR. MURDOCK: I thought you would agree with that.

Right Hon. MR. MEIGHEN: It is true that this gives vast authority to the Chief Commissioner, and it may be that the committee would feel like restricting that authority. But I feel it is very difficult to state what restriction there should be. We cannot direct the Chief Commissioner to give the public a chance to be heard on every occasion, because no doubt there would be matters of minor consequence coming before him with respect to which it would be absurd to provide that advertisements should be published all over the country. On the other hand it might be provided that the Governor in Council could direct the Chief Commissioner to have certain hearings in public and to advertise them.

But if that is done it will mean that the public will be appealing to Governor in Council all the time. That is the objection. I think you can trust the Railway Commissioner to see that where public interests are seriously affected there will be advertisements.

Hon Mr. MURDOCK: The section says the presiding officer may order advertisements if any application raises matters of substantial concern to the public or a section of the public.

Hon. Mr. CASGRAIN: The advertisements are to be inserted in newspapers.

Right Hon. Mr. MEIGHEN: Yes. I would not have the slightest hesitation in trusting the commissioner in that. But I do want to be certain that the railways are not empowered to make reductions in services, lines, trackage, or terminals, without the public having a right of appeal to the Railway Commission as it now has. I do not think this would give such power to the railways, but I intend to make sure that it does not, for if it did something would be done that the Commission never intended and that neither the Government nor Parliament would ever sanction. It would never do to give power that would override the bounden duties of the roads to furnish reasonable services.

Hon. Mr. CASGRAIN: The railway board would be doing its duty and attending to that.

Right Hon. Mr. MEIGHEN: I want to preserve the right of appeal to the Railway Commission in this respect, and also any rights that labour has under either the Labour Act or the Industrial Disputes Act.

The CHAIRMAN: Section 20 reads:—

For the carrying out of the provisions of this Part, the Chief Commissioner may make rules or regulations governing all matters of procedure, including the care and custody of the proceedings before and the orders and decisions of Arbitral Tribunals.

Rules or regulations of the Board of Railway Commissioners in respect of the procedure for hearing applications, and the conduct of its sittings shall, mutatis mutandis apply to proceedings before the Arbitral Tribunal, except in so far as they may be inconsistent with the provisions of this Part, or with rules or regulations expressly made for the purposes of this Part.

Hon. Mr. GRIESBACH: Does that call for a permanent registrar? Would the office of the Board of Railway Commissioners be the registry office?

Right Hon. Mr. MEIGHEN: It may be that included in the powers of the Chief Commissioner should be the establishment of records and the provision of personnel for the keeping of them. That is what you have in mind?

Hon. Mr. GRIESBACH: Yes.

Right Hon. Mr. MEIGHEN: For all tribunals, because he will be on them all.

Hon. Mr. GRIESBACH: Yes.

Right Hon. Mr. MEIGHEN: I think, Senator Griesbach, the intention is that the orders should be executed as if they were orders of the Railway Commission, and consequently that there should be the same system of recording that the Railway Commission now has. It was intended, I think, that the orders should run through the Railway Commission and be included in the Commission's records.

Hon. Mr. GRIESBACH: Is that clear in the Bill?

Right Hon. Mr. MEIGHEN: If it is not clear it will be made clear.

The CHAIRMAN: Section 21:—

The Chief Commissioner as presiding officer of any Arbitral Tribunal shall have and exercise all the powers of the Board of Railway Commissioners to examine witnesses upon oath and for securing the attendance of witnesses, and for the production of documents and generally in respect of witnesses and evidence as provided in the Railway Act.

And section 22:—

An order or decision of any Arbitral Tribunal shall be binding upon the National Company and the Pacific Company, and shall have like force and effect as an order of the Board of Railway Commissioners for Canada made in a matter falling within the Board's jurisdiction, and may be enforced as if it were an order of said Board, and all the provisions of the Railway Act in respect of orders of the Board and their enforcement shall apply *mutatis mutandis* to an order or decision of the Tribunal.

Right Hon. Mr. MEIGHEN: I think that the purpose Senator Griesbach had in mind could be achieved by inserting, after the words "like force and effect" in line twenty-two, the words "and be recorded in the same manner and place."

Hon. Mr. CALDER: And by the same officials.

Right Hon. Mr. MEIGHEN: The section could be made to read:—

An order or decision of any Arbitral Tribunal shall be binding upon the National Company and the Pacific Company, and shall have like force and effect, and be recorded in the same manner and place, and by the same officer or officers, as an order of the Board of Railway Commissioners for Canada.

and so on.

The CHAIRMAN: Section 23:—

Where the execution of an order, or the carrying out of a decision of the Tribunal, involves the doing of any act which by any statute requires the assent or approval of the Board of Railway Commissioners, or where in the opinion of the presiding officer himself the public interests involved are of sufficient importance to warrant it, no order made by a Tribunal shall be operative without the concurrence of the presiding officer and his formal written assent.

The CHAIRMAN: Section 24:—

In the event of any conflict between an order of the Board of Railway Commissioners and that of any Tribunal, the order or decision of the Tribunal shall prevail.

The CHAIRMAN: Section 25 says:—

The determination of an Arbitral Tribunal shall be final as to all matters of fact and of law except a matter going to the jurisdiction of the Tribunal. No proceedings in certiorari shall lie, but in lieu thereof there shall be an appeal to the Supreme Court of Canada, by leave of a Judge of that Court, upon a question as to jurisdiction.

(2) Such appeal shall be asserted and shall proceed according to the ordinary rules and procedure of that Court, except that they may be varied in the particular case to fit its circumstances by direction of the Judge who gives leave to appeal.

Well, gentlemen, we have gone through the Bill.

Hon. Mr. CASGRAIN: Mr. Chairman, there are many excellent clauses in the Bill, but in order that we may benefit as soon as possible I should like to have an expression of opinion on the motion:—

That, pending the passing of the present Railway Bill "A" in the opinion of the Committee a certain number of officials of the Canadian Pacific Railway Company and an equal number of officials of the Canadian National Railways should meet to try and co-operate in eliminating some of the duplication of railway service with a view to economy, and that in the cases when they cannot agree the Chairman of the Railway Board may be called in to act as umpire and thus give effect to the proposed economies.

Hon. Mr. DANDURAND: Do you want that in the Bill?

Hon. Mr. CASGRAIN: No. We are losing a million dollars a week, and as it may be some weeks before this Bill is passed, I desire to secure an expression of opinion with a view to encouraging the railway companies to go to work immediately. Furthermore, the Chairman of the Railway Board could be called in to act as umpire if they could not agree. The motion cannot do any harm, and I know that neither railway has any objection to it.

Hon. Mr. MURDOCK: The motion is before the Senate now.

Hon. Mr. CASGRAIN: It stands there, but it was suggested to me that it would be better to bring it up in this committee, where it could be considered quietly. That is the reason I had the motion in the Senate stand.

Right Hon. Mr. MEIGHEN: Senator, this committee cannot deal with anything that is on the Order Paper of the Senate, and you left your notice of motion on the Order Paper.

Hon. Mr. CASGRAIN: If it is taken up here I will drop it in the Senate.

Right Hon. Mr. MEIGHEN: It would have to be dropped in the Senate first, because the Senate has it under purview, and it has not committed it to us. If it were dropped in the Senate and brought up here, and we were to reach a decision on it, we would have to report back to the Senate. Why not go ahead with it in the Senate?

Hon. Mr. CASGRAIN: I thought the committee would recommend it to the Senate.

The CHAIRMAN: If you want to get it before the committee you can move in the Senate that the resolution be referred to the committee.

Well, gentlemen, to what date shall we adjourn? Thursday morning at 10.30 has been suggested.

Gentlemen, we have made arrangements with the labour people to be here on Thursday morning. Is it your pleasure that the Clerk shall inform the Board of Trade of Halifax that we will meet at 10.30 next Thursday, and that we wish to hear them then?

Some Hon. MEMBERS: Carried.

Hon. Mr. CALDER: Are any Canadian National men going to appear before us?

Right Hon. Mr. MEIGHEN: No, they have wired that they do not wish to be heard.

I have a letter written on behalf of Mr. Wegenast—he appears to write it by proxy—in which he requests to be heard. I will paraphrase the letter very briefly. It is for the purpose of making sure that no Arbitral Tribunal appointed

under the Act can authorize or sanction the abandonment of any lines, services, or facilities. I suggest that a letter be sent to him by the Clerk to the effect that while the committee would not decline to hear him on the subject, one of the main purposes of the Bill is to secure economy, and that it would be very unlikely that the point he raised would be acquiesced in by the committee.

The CHAIRMAN: Is that your pleasure, gentlemen?

Some Hon. MEMBERS: Carried.

The committee adjourned until Thursday, November 24, at 10.30 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 4

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

Mr. W. L. Best, representing Standard Organizations of Railway Employees.

Mr. Robert J. Tallon, President, Federated Railway Trades of Canada.

Colonel E. C. Phinney, K.C., representing Government of Nova Scotia, Corporation of the city of Halifax and Halifax Board of Trade.

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	L'Espérance
Barnard	Lewis
Beaubien	Lynch-Staunton
Béique	McArthur
Béland	Marcotte
Bourque	McDonald (<i>Shediac</i>)
Buchanan	McLennan
Bureau	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Daniel	Murphy
Dennis	Paradis
Donnelly	Pope
Forke	Rankin
Gillis	Raymond
Gordon	Robertson
Graham	Robinson
Green	Ross
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Laird	Turgeon
Lacasse	Webster.

[Quorum 9]

THE SENATE,

THURSDAY, November 24, 1932.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A, intituled an Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes, resumed this day at 10.30 a.m.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: The committee has decided to hear the labour representatives first.

Hon. Mr. DANDURAND: Before we start on this inquiry I should like to settle a point with my friend the leader of the Government, as to the extension of the inquiry in this committee. I read the speech made by him when he presented the Bill, and I took it for granted that although this Bill was here in the form of a Government measure it was to be examined freely from all angles, and that we would not be bound by the principle or principles involved in the Bill. Being under that impression I explained that we might well explore and inquire into the value of the resolution of the Senate of 1925, and in closing I said:—

I have called attention to the report of the Senate committee because of the fact that a number of honourable senators have taken their seats since 1925, and I think it would be well for us to bear that report in mind when dealing with this Bill in committee.

Then Mr. Calder follows along the same lines. He said:

As a matter of fact, it was not necessary for me to say anything at all about the Bill, because, as I understand, we are not asked to approve its principles at this time. The Bill, I presume, will simply be given a pro forma second reading, and every honourable member will be left free to take a stand for or against any principle or detail.

We are now dealing with one of the most important problems affecting the whole economic fabric of the Dominion. We know what is our present situation financially, and how hard it will be for the Government to press further in imposing taxes on the people in order to meet the deficits of the Canadian National Railways. That being so, I thought, and I said so in the Senate, that perhaps the Commission had not gone as far as it could have gone towards solving our problem and curing our ills. As a matter of fact, I read some three hundred pages of the evidence in which the commissioners themselves must have furnished one-third or one-quarter of the evidence in exchanging views with the witnesses appearing before them. A representative of the Canadian National, who has been with that railway and with the Canadian Northern for thirty years, Mr. Ruel gave his views, and said that he wanted something that would penetrate into the abscess and cleanse it, if possible, and he brought before the Commission a tentative Act to incorporate the Canadian Co-operating Railways and respecting the Canadian National and Canadian Pacific Railway systems and the Canadian Government railways. I have secured a copy of that Bill. It would tend to eliminate amalgamation under private ownership or under public ownership, and follows the middle line of joint management.

I shall not put on record at this moment the Bill presented by Mr. Ruel, who knows all the intricacies of the Canadian National. He was speaking

as the representative of that railway system—that is, as the representative of all of us—and I suggest, therefore, that the chairman be asked to call him before to-morrow's meeting. I move accordingly.

Hon. Mr. MURDOCK: I second the motion.

Right Hon. Mr. MEIGHEN: I have no change to make in the language that I used in introducing this Bill or on the motion for the second reading. The entire liberty that I there outlined I want to continue to the full. It will be noted that I made no statement that the second reading would not involve the adoption of the principle of the Bill, and I sought later, in this committee, to define the principle clearly as economy by co-operation. It may be that others interpreted the second reading differently. For my part, if, in the progress of this committee, Senator Dandurand or any other member desires to move an amendment for a solution at variance with the principle of this Bill, I, as leader of the Government, will not ask the chairman to rule it out. Now the motion before the Committee is merely that Mr. Ruel be called. Certainly I have no objection to that.

Hon. Mr. MURDOCK: Might I suggest, Mr. Chairman, that if the Committee would read the record of Mr. Ruel's evidence before the Royal Commission we might not consider it necessary to call him. In dealing with this question that is now before us, Mr. Ruel says at page 2212 of the Commission's record:—

I think competition is a curse.

As I understand, all through his evidence Mr. Ruel appeared to take a position entirely contrary to the recommendations of the Royal Commission, and also of the Bill now before us implementing those recommendations. Do we want to have Mr. Ruel come before us to reiterate his expressed view that there should be no competition, and that he thinks the whole railway situation should be handed over to one concern?

Hon. Mr. CASGRAIN: Mr. Ruel is very well versed in railway matters, but it is months since he gave that evidence before the Royal Commission, and he must have learned a lot in the meantime. We want to know what he has learned since then.

The CHAIRMAN: Does the motion carry?

Some Hon. MEMBERS: Carried.

Hon. Mr. BUREAU: When will Mr. Ruel be heard?

The CHAIRMAN: We are sending a telegram asking him to be here to-morrow morning.

Who speaks for Labour?

Mr. W. L. BEST: Mr. Chairman, I appear on behalf of Railway Labour, including the Trades and Labour Congress of Canada.

At the outset may I say that the memorandum now before you was prepared for presentation to the Government in relation to the report of the Royal Commission on Railway Transportation. As your honourable body had intended to hear us in January in view of the early adjournment of the present session, we had been proceeding with the preparation of this memorandum to present to the Government, that being always our policy with respect to Government measures affecting railway labour; but the present session having continued longer than was anticipated, and you having requested us to appear to-day, we had no other alternative than to use this memorandum, which, as you will see from the summary at the conclusion, covers at least the principles contained in the Bill to which your Committee is giving consideration.

With your permission, sir, I will now read the memorandum, and if when I have finished any honourable gentleman desires to put any interrogations to me I shall be very glad to answer them.

MEMORANDUM OF COMMENTS AND RECOMMENDATIONS
SUBMITTED ON BEHALF OF THE STANDARD ORGANIZA-
TIONS OF RAILWAY EMPLOYEES COVERING THE REPORT
OF THE ROYAL COMMISSION ON RAILWAYS AND TRANS-
PORTATION IN CANADA, 1932.

I. INTRODUCTION

It is our desire at the outset to assure the Government and Parliament of Labour's deep concern for the successful solution of the railway difficulties confronting Canada. As the representatives of the Standard Railway Labour Organizations, and the Trades and Labour Congress of Canada, we speak for the 200,000 workers necessary to the Canadian railways. It must be obvious that the welfare of this large group of wage earners and their dependents is inextricably bound up with the destiny of the Canadian railway industry. And likewise the degree of efficiency, the cost of operation and the quality of the service of the railways are vitally affected by the attitude and conduct of the thousands of persons necessary to perform the day by day tasks of railway operation. Without their enthusiastic and loyal help and co-operation it would be impossible for the railways adequately to fulfil their responsibility to the people and industries of Canada. It is this fact, this interrelation of employee, railway and public welfare, which moves us to appear before you to-day and convey to you our carefully thought out position in respect to the observations and recommendations of the Report of the Royal Commission to inquire into Railways and Transportation.

As a general proposition, we are pleased to advise that railway labour finds itself in accord with many of the findings and recommendations of the Royal Commission. We recognize the magnitude and arduousness of the task assigned the Commission and sincerely believe that where it did not comment upon problems of specific interest to railway labour and make suitable recommendations, it was primarily because it could not in the time at its disposal deal to a final conclusion with all of the implications and consequences growing out of those reforms which it did recommend. We prefer to consider that the Commission rather deferred to the capacity of railway labour to safeguard its interests and the conscience of railway management and the Government to provide adequate insurance against consequences growing out of its recommendations which would work hardship upon railway labour. So where, hereafter, we either differ with the findings of the Commission or are insistent upon the necessity for providing measures which will protect the interests of the railway worker as well as those of the railway owner and user, it is primarily because we are firmly convinced that the difficulties of the Canadian railways and especially the Canadian Government will in the last analysis not be solved at all if the employees are menaced by the threat of lowered living standards and are further exposed to the hazard of unemployment. To reduce the cost of operating the railways by measures which would reduce the purchasing power of nearly a million citizens and seriously aggravate the unemployment problem would adversely affect railway morale and so railway service and operation. At the same time it would create additional demands for relief upon municipalities, provinces and the Dominion which would have to be met largely out of funds raised through taxation and other methods of community and government finance.

II. THE FUTURE OF THE CANADIAN NATIONAL RAILWAYS

1. Maintenance of Railway Identity

Railway labour is fully in accord with the recommendation of the Royal Commission to the effect that the identity of the Canadian National and the Canadian Pacific Railways be maintained. It is also fully in accord with the Commission's recommendation that the Canadian National continue under government control and that its relation to the Government be so modified as to reduce the hazard of political interference in management to a minimum. As a general proposition, railway labour considers that the interests of the railway user, investor and worker as well as the public will be best preserved and furthered through the maintenance of healthy competition between a publicly-owned and a privately-owned railway system of approximately equal status. It visualizes in this arrangement, subject to a statutory mandate for the two railway systems to eliminate wasteful rivalries, the most satisfactory set-up which can be devised for the conduct of the railway service of Canada.

2. Control and Management of the Canadian National

The Commission recommends that three trustees should be appointed by the Governor-in-Council, in whom should be vested the powers of the present Board of Directors, as well as such additional authority, including the appointment of the Chief Operating Officer, to the end that the reconstituted Board would function not primarily in an advisory capacity, but as a body full empowered "to administer the property and operate the system and every part thereof." All decisions of this Board of Trustees shall be by majority action providing the Chairman is a member of such majority. Furthermore, the Board is to be self-perpetuating, since vacancies shall be filled only from nominations made by the trustees themselves.

We find ourselves at variance with this proposal for the control of the Canadian National Railways. In the first place railway labour submits that the provision giving the Chairman in essence full veto power over the decisions of the Board is in practice subjecting him to the temptations of dictatorship. This is too great a concentration of responsibility and authority in one man. Railway labour is most reluctant to see the fate of the Canadian National properties and the welfare of its thousands of employees entrusted to the judgment of one individual, no matter how capable, experienced and wise he may be. It is our reasoned conclusion that the setting up in virtual perpetuity of control so highly concentrated over the affairs of the Canadian National in an attempt to escape the influence of political and community pressure is going to the other extreme, that of autocratic control. And this, in our humble opinion, is infinitely worse than the evil which it is sought to remedy.

In the second place, we contend that a board of trustees, consisting of three persons for a transportation system the size of the Canadian National with its ancillary services and its many thousands of employees is inadequate to bring that high degree of experience, thought and counsel to the affairs of the Canadian National Railways which will be needed, especially during the immediate years of economic rehabilitation ahead of us. We are particularly concerned about the problems involving the human element of the Canadian National and consider that at least one member of the new Board of Trustees, regardless of its size, should be especially qualified to counsel in respect to these problems because of his experience and the confidence imposed in him by the railway employees.

This policy was recognized in the make-up of the present Board of Directors of the Canadian National, and also on other important public boards and committees. To this arrangement must be attributed much of the loyalty and enthusiasm, as well as good relations between management and men on the Canadian National of which the Royal Commission took special cognizance. In the opinion of railway labour it would be a grave mistake to ignore the wholesome lesson taught by this experience and in the face of it now deny labour the opportunity to continue to help in the administration of the government-owned railway system.

In view of the foregoing, we strongly urge that there should be at least five trustees appointed by the Government for a period of seven years, whose terms of office shall expire at intervals not less than one year apart. Five highly competent persons, one of whom is particularly qualified in personnel matters, another one of whom is expert in matters of public relations, while the remainder are especially competent in railway finance and operating matters would, in our judgment, constitute the ideal make-up of the future Board of Trustees for the Canadian National Railways.

In support of the consistency of our proposal, attention is directed to the Report of the Royal Commission on Railways and Transportation in Canada of 1917, known as the Drayton-Acworth Report, wherein recommendation 31 provides:

"31. We recommend that there be five Trustees, three railway members, one member selected on the ground of business and financial experience, and one as specially possessing the confidence of railway employees; that the original Trustees be named in the Act constituting the Board; and that their tenure of office be substantially the same as that of judges of the Supreme Court."

3. Chief Operating Officer for the Canadian National

An analysis of the Commission's recommendations with respect to the Chief Operating Officer of the Canadian National impels us to the conclusion that any person qualified for the position of President and charged with the care and entire working of the railway in detail should at least be accorded ex-officio a voice in the deliberations of the Board of Trustees. Perhaps this feature can be taken care of in the by-laws which the Board of Trustees will formulate as soon as it is organized. Railway labour is particularly anxious that no situation develop as between the Board of Trustees and Chief Operating Officer which will make for delay or difficulty in arriving at decisions of vital importance to the efficient conduct of the National Railway System. The contact between Chief Operating Officer and Trustees should be intimate and continuous in order that the business of railway administration may be expedited to the greatest possible extent.

4. Qualifications of Management

The Royal Commission reveals in its report that it is fully aware of the menace of "political and community" pressure to which the Canadian National has been exposed in the past and recognizes the undesirability of political interference in the operating affairs of the System. To safeguard against these hazards in the future the Commission has made certain recommendations with which we find ourselves substantially in accord. There is another feature in respect to this matter, however, which the Commission does not deal with specifically, but which in railway labour's estimation is of equal importance

to the success of the Canadian National under government ownership. This feature concerns those individuals, namely, the members of the Board of Trustees, the Chief Operating Officer and his staff of officials who will be charged with the responsibility of administering the Canadian National.

We consider it most important indeed that only such persons be selected for these posts who are firmly convinced of the possibility and practicability of making a success of the Canadian National as a publicly-owned enterprise. Any other attitude of approach with regard to those who will manage such an important undertaking would presuppose its failure. We assure the Government that with publicly spirited individuals at the helm of the Canadian National determined to make public-ownership a success, railway labour will be in full sympathy and do its utmost to assist.

5. Budget Requirements, Annual Report and Audit

The Commission further proposes that the annual budget of the Canadian National should be under the control of the trustees, and that amounts required for income deficits, including interest on railway obligations, for capital and for refunding should first be submitted to the Treasury Board for its approval and presentation to Parliament by the Minister of Finance. It also suggests that a report be made to Parliament by the Board of Trustees and that a continuous audit of the accounts of the System be made by independent auditors, who should also make a report to Parliament. In conclusion, the Commission earnestly recommends that "in the interest of discipline and to prevent prejudice to the relations that should prevail between trustees and the staff that the officials of the company in charge of operations should not be asked to appear (before Parliament) for examination."

Railway labour heartily endorses all these recommendations, the last one in particular, and urges that they be carried out by the proper authorities in spirit as well as in letter. By such action the morale of the Canadian National personnel, in our opinion, stands to be progressively strengthened in the future.

6. Capital Structure of the Canadian National

Railway labour has long been painfully aware of the blighting effect of the handicaps imposed by the inflated and distorted financial structure of the Canadian National, especially upon management and labour, and agrees with the Commission's observations that:—

"* * * it must be frankly recognized that a very substantial part of the money invested in the railways comprised within the Canadian National System must be regarded as lost and that its capital liabilities should be heavily written down * * *."

For reasons which it did not state, however, the Commission did not consider the time opportune to deal with this important matter, but suggested instead that it have the early attention of the Board of Trustees.

It is quite conceivable that the Royal Commission could not, in the time at its disposal, bring down a detailed plan revising the very complicated corporate as well as financial structure of the Canadian National. It is significant that it did go so definitely on record as to the inflated nature of the prevailing financial structure and the necessity for reducing it to a sound basis. But railway labour cannot agree that the time is inopportune to deal with this important matter. Instead it would seem

that the sooner steps are taken which will lead without delay to the right and permanent revision of the Canadian National financial structure the better it will be for all concerned. So we respectfully urge that a determined start be made to solve this problem once and for all. No fear need be entertained that its solution will evolve prematurely. The task is so complicated that the country should be well on the road to recovery by the time it becomes possible to recast the finances of the Canadian National. In railway labour's opinion the delay in dealing with this situation over the last ten years has been as much responsible for some of the demoralizing experiences of the Canadian National as any other difficulty.

III. THE ELIMINATION OF WASTEFUL RIVALRIES

1. *Co-operation Between Railways*

The Commission emphasizes the failure of the railways in the past to get together in their own interests and in the interests of the public; that it is not enough that each should take all practicable measures of economy in respect of its own system, but urges that there must be joint action with a view to savings in the wider sphere. It then recommends that a statutory duty be imposed upon the Trustees of the Canadian National Railways, as well as upon the Directors of the Canadian Pacific Railway, to adopt as soon as practicable such co-operative measures as shall be best adapted to the removal of unnecessary or wasteful services or practices, to the avoidance of unwarranted duplication in services and facilities and to the joint use and operation of all such properties as may conveniently and without undue detriment to either party be so used.

Whilst closer co-operation might be effected in some phases of railway operation, we respectfully submit that any hasty action in further elimination of services and facilities which may be duplicated at certain points, will not tend to improve the railway situation, especially in the present crisis, nor is it calculated to relieve the tragic human conditions prevailing throughout Canada.

We also feel that if measures are taken for co-operation between the two Systems for the elimination of duplicate services and facilities, appropriate provisions should be made for protecting the interests of the employees. Although we are directly interested, with other taxpayers in the financial condition of our railways we are quite frank in stating that our primary concern is for the welfare of the employees and their families who may be adversely affected by the proposed economies. We believe that many thousands of our citizens in the communities which have been built up around the railways will share with us the deep concern of their fellow citizens employed on the railways, and whose future welfare may be determined by economic expediency rather than human considerations. We are not convinced that economic expediency, regardless of human welfare, will solve this national problem.

To this end, therefore, railway labour feels obliged to urge with all the emphasis it can command the necessity of also imposing upon the railways a statutory duty not to aggravate the evils of unemployment as a by-product of co-operation between them. Moreover, we strongly recommend that if railway lines are to be eliminated, terminal or other facilities closed, removed, substantially or totally abandoned, or traffic diverted, which would affect the seniority, or right to work as between the employees of one seniority district and those of another on either

railway, or as between the employees of the Canadian Pacific Railway and those of the Canadian National Railways, the railway company or companies concerned should be required to give at least sixty (60) days' notice of such contemplated changes to the representatives of the respective organizations of the employees directly concerned holding contracts with the railways and, before any changes are made, endeavour to agree with such representatives to an adjustment of the seniority or rights to work of the employees affected thereby. We also believe that in the event of railway employees suffering property losses due to the elimination of railway lines, partial or complete abandonment of terminals or facilities, or diversion of traffic, compensation should be afforded them for such losses. In order that the foregoing conditions may be assured, definite provision in this respect should be embodied in any legislation enacted bearing thereon.

2. The Arbitral Tribunal

Railway labour finds itself quite unable to acquiesce in the principle of compulsory arbitration between the railways for the purpose of forcing co-operation as proposed by the Royal Commission in respect to the Arbitral Tribunal as long as one and only one man, the Chairman of the Board of Railway Commissioners, has the deciding voice. But this is not our only objection. No recommendation is offered by the Commission with regard to the protection of the employees' interests by the Arbitral Tribunal. This Tribunal, subject to the judgment of one individual, has it within its power to decide the fate of thousands of railway employees to say nothing of their associate citizens, as well as the schools, churches, banks, public facilities and industries identified with the communities in which they live. We respectfully remind the Government that the investment of the railway employees in their industry is the investment of life itself. In the merging of facilities, the pooling of traffic, the elimination of lines and the like, the human investment as distinguished from the financial investment is usually disposed of far too lightly. It would be considered quite preposterous for example to deprive the holders of mortgage bonds of some or all of their financial equity in these bonds if the underlying physical facilities were merged or abandoned. Yet this is precisely the fate meted out to railway employees whose employment equity is sacrificed whenever facilities are merged or abandoned.

In view of these aspects of the proposed Arbitral Tribunal, it is our contention that if compulsory arbitration be considered indispensable as a final means for eliminating wasteful rivalries, that the service of the Board of Railway Commissioners for Canada and not the Arbitral Tribunal subject to one man domination, be invoked to sit in judgment on the matters in dispute. We also recommend, in the interest of full and adequate consideration of all issues involved, that railway labour be enabled as a vitally interested party to appear before any joint conference or final boards of arbitration as may be established to consider specific measures aiming at the elimination of costly rivalries.

3. Ancillary Services.

It is the opinion of the Commission that aggressive competition between the ancillary services of the two railway systems (hotels, telegraphs and express service) where now operated competitively should cease, and that both railways, by means of the conference plan proposed, should work out schemes "which will permit of the working in harmony

of these ancillary services where now operated competitively." Railway labour again urges the necessity of so carrying out these suggestions, if and when undertaken, that the same regard and consideration be given the employees affected as is prescribed for all others.

IV. MOTOR VEHICLE COMPETITION

In our opinion the Commission makes a thorough and illuminating analysis of motor vehicle competition with the railways of Canada. It maintains, as a general proposition, that "relief to the railways from the inroads being made by trucks into freight earnings will come by restriction and regulation of truck traffic as distinct from taxation and by some form of co-ordination with rail traffic." It goes on to point out that the framing of regulations for the purpose of controlling motor vehicles is within the competence of provincial highway authorities and police administrations to enforce. On the strength of this the Commission proposes that the related problems of regulation and restriction of motor traffic on highways could best be dealt with by a conference of highway department officials of all provinces meeting at the invitation of the Federal Government. The Commission then lays down seven objectives to serve as guides for this conference with the major portion of which we are in hearty accord. Of special concern to labour are the following two objectives, namely:—

"Minimum standards in regard to working conditions, including wages and hours of labour, should be required."

"In the interests of the safety of the public, a standard of fitness should be required of all operators in regard to their vehicles."

In the past railway labour has participated actively in the shaping of provincial legislative and regulatory measures designed to improve highway transportation and equalize the opportunity of service between motor vehicle and railway transportation. It is ready, able and willing to continue to make its contributions to the formulation of regulatory measures which must be adopted progressively with respect to motor vehicle transportation. In this connection we urge that representatives of labour be invited by the provincial highway authorities and the Federal Government to participate in the national conference proposed by the Royal Commission for the specific purpose of advising in respect to minimum standards of employment, wages, hours and fitness of personnel in motor vehicle service. Labour is peculiarly well equipped to assist in the shaping of such regulations.

V. LABOUR RELATIONS AND THE PREVENTION OF UNEMPLOYMENT

It is gratifying to note that the Royal Commission recognizes the existence of good relations between management and employees on both systems. Its observations to the effect that in bringing the road and equipment of the Canadian National to the standard of required efficient operation there emerged "an efficient transport system affording a service of high standard with a loyal and enthusiastic staff of officers and employees * * *" is also indicative that labour relations have been satisfactory on Canadian railways.

With the picture of good labour relations and satisfactory morale before it as well as the readiness of railway labour to co-operate with management for mutual welfare and public service, it is disappointing to us

that the Royal Commission did not rise to the occasion and call particular attention to the willingness and capacity of labour to co-operate for the common good. We respectfully submit that no single reform applicable to the railway industry of Canada offers more lasting benefits over a long range of time than whole-hearted co-operation between responsible labour unions and management for the good of both and the public they serve. We maintain that no improvement in Canadian transportation can be had for less in the way of capital expenditure and legal changes than the sincere co-operation of the thousands of railway workers in the day by day performance of their duties.

Railway labour's policy of co-operation aims principally at enlarging the usefulness of labour unions to the railway industry. Instead of confining union activities simply to the negotiation of wages, rules of employment and working conditions, it seeks to enlist the help of the employees on the railways in the conservation of materials, elimination of waste, increase of production, improvement in service, solicitation of traffic and in many other ways of benefit to the railways and their patrons. This necessitates first of all willingness on the part of railway managements to accept such help from the labour unions, and next to regard unions as potential assets to management rather than as liabilities. And since the collective agencies of mankind function largely in response to the prospect of future reward, so railway labour unions will and do co-operate with management when it appears that such co-operation stands to be rewarded by benefits to all concerned. The benefit of greatest value to labour and society, especially under present conditions, is the prevention of unemployment. Hence, a sound program of labour-management co-operation aims to safeguard labour and the national welfare against unemployment.

There are other benefits, some immediate, some remote, which labour just as management, hopes to gain through its co-operative policy. Among these may be listed improvements in working conditions, better understanding between men and officers, fewer grievances, increased real wages and greater wage income—constructive objectives, all of which are certainly desirable when judged by the economic and social welfare of Canada and its people. And if these benefits can be secured by means of joint effort in the prevention of waste, in the increase of railway efficiency and in the improvement of railway service—in short at no expense to employer, employee, shipper, investor or public—then obviously the policy of labour co-operation as thus far developed on the Canadian railways is deserving of all the encouragement it can get.

In the face of the splendid opportunity available to secure labour's full co-operation in improving the general performance and conduct of the entire Canadian railway situation, we deeply regret that the Royal Commission failed to take note of this opportunity, but instead merely commented upon the rigidity of wage scales and labour practices as one of the contributory causes of the railway problem. We prefer to stress the possibilities inherent in genuine co-operation between labour and management as one of the most worthy methods to help solve the railway difficulties of Canada. For the Government to encourage and railway management to take full advantage of labour's co-operative attitude rather than to aggravate the unemployment situation or interfere in long established labour relations will, in our opinion, be the statesman-like thing to do.

VI. SUMMARY

In summarizing our comments and recommendations respecting the Report of the Royal Commission on Railways and Transportation and such legislation as has been or may be proposed to carry out its recommendations, we respectfully urge and submit:—

FIRST

That, in the search for a solution of the railway problem of Canada the welfare and interest of the human element party to the Canadian railway industry be not sacrificed in the vain hope that such sacrifice will solve the financial and material difficulties of Canada's railways and Government. Railway labour is deeply apprehensive that failure to adequately protect the equity of Canadian railway employees in their industry in an attempt to ease the financial burdens upon the railways, will inevitably lead to disappointment and the creation of new burdens in other quarters.

SECOND

That, in the interest of preserving harmony and good-will as between railway employees, management and government during the crisis in which we all find ourselves, the long established, successful and proven labour relations prevailing in the railway industry be not disturbed. Not only will the maintenance of existing relations allay unwarranted apprehension but it will also serve to strengthen and develop the spirit of co-operation between management and men for mutual benefit and public service.

THIRD

That, given the assurance that the interest of the railway employees will be adequately protected and labour relations not disturbed, railway labour stands ready to co-operate whole-heartedly with all concerned to effect a progressive, orderly and humane solution of the railway difficulties of Canada.

In the light of these three basic principles, we therefore specifically submit:—

FOURTH

That the identity of the Canadian National and Canadian Pacific Railways be maintained, and the Canadian National continue under government control.

FIFTH

That, in the reconstruction of the Canadian National Railways directorate, there shall be at least five trustees appointed by the Government for a period of seven years, their appointments to expire at intervals not less than one year apart. A majority of the trustees shall govern decisions of the Board. One trustee shall be selected from a panel of nominees submitted to the Government by the voluntary organizations of labour having contractual relations with the Canadian National Railways. All directors so appointed, in addition to their qualifications as to business, financial and railway experience, should also be convinced as to practicability of the successful operation of a publicly-owned enterprise.

SIXTH

That the task of writing down the capital structure of the Canadian National be undertaken without further unnecessary delay.

SEVENTH

That, along with the mandatory duty to be placed on the railways to co-operate for the purpose of eliminating wasteful rivalries, conserve expenses and the like, there be placed a concurrent duty to safeguard railway employment likely to be affected by co-operative measures, and that in carrying out this mandatory duty to safeguard employment the railways by law or otherwise be required to adopt the following measures:—

(a) Give sixty days' notice to representatives of the respective organizations of employees directly concerned of contemplated measures designed to eliminate rivalries, merge or abandon facilities, re-route traffic, and the like, so as to enable these representatives and the railways involved to adjust seniority and related issues which may arise.

(b) Insure to the employees vitally concerned through their accredited representatives the right and opportunity to appear before joint conferences between the railways considering co-operative measures, as well as before arbitration boards dealing with disputes arising therefrom.

(c) Provide that all employees who are compelled through co-operative measures to transfer to other localities in order to hold their employment, and so are obliged to sacrifice their homes, shall be adequately compensated for such sacrifices by the employing railway.

EIGHTH

That, in the event some tribunal is thought necessary to sit in judgment upon request from either railway in respect to measures in dispute, the Board of Railway Commissioners be empowered to discharge this function.

NINTH

That a conference of provincial highway authorities be called under Federal auspices without delay to prepare a recommended code to regulate motor vehicle transportation for adoption by the various provincial authorities concerned, and that railway labour through its accredited representatives be enabled to participate.
Respectfully submitted on behalf of:

Brotherhood of Locomotive Engineers

R. H. Cobb, Assistant Grand Chief.

Byron Baker, Dominion Legislative Representative.

J. B. Ward, General Chairman, C.P.R.

H. B. Chase, General Chairman, C.N.R.

Thomas Skelly, General Chairman, C.N.R.

J. E. Mitchell, General Chairman, C.N.R.

Brotherhood of Locomotive Firemen and Enginemen

H. H. Lynch, Vice-President.
Wm. L. Best, National Legislative Representative.
Hugh Richmond, General Chairman, C.P.R.
T. M. Spooner, General Chairman, C.N.R.
Wm. G. Graham, General Chairman, C.N.R.
R. E. Linden, General Chairman, C.N.R.

Order of Railway Conductors

C. S. Montooth, Vice-President.
A. H. Nethery, Canadian Legislative Representative.
S. H. Carson, General Chairman, C.P.R.
Thomas Todd, General Chairman, C.N.R.
B. L. Daly, General Chairman, C.N.R.

Brotherhood of Railroad Trainmen

W. J. Babe, Vice-President.
James Conley, Dominion Legislative Representative.
A. McGovern, General Chairman, C.P.R.
J. J. Hendrick, General Chairman, C.P.R.
W. G. Cunningham, General Chairman, C.N.R.
J. W. R. Hibbitts, General Chairman, C.N.R.
C. P. Lockwood, General Chairman, C.N.R.

Order of Railway Telegraphers

J. J. Trainor, Vice-President.
George Gilbert, General Chairman, C.P.R.
J. A. Bell, General Chairman, C.P.R.
W. H. Phillips, General Chairman, C.N.R.
J. H. Dixon, General Chairman, C.N.R.
J. T. Eddy, General Chairman, C.N.R.

Brotherhood of Maintenance-of-Way Employees

W. V. Turnbull, Vice-President.
J. J. O'Grady, General Chairman, C.P.R.
A. McAndrews, General Chairman, C.P.R.
W. Aspinall, General Chairman, C.N.R.
W. H. Crampton, General Chairman, C.N.R.

*Brotherhood of Railway and Steamship Clerks, Freight Handlers,
Express and Station Employees*

F. H. Hall, Vice Grand President.
W. A. Rowe, General Chairman, C.P.R.
J. L. Pateman, General Chairman, C.P.R.
Jas. Ducat, General Chairman, C.N.R.
J. A. Grattan, General Chairman, C.N.R.
J. W. Walters, General Chairman, C.N.R.
J. T. B. Kane, General Chairman, Dom. Atlantic Ry.

International Association of Machinists

James Somerville, Vice-President.
W. Duncan, General Chairman, C.N.R.
J. E. McGovern, General Chairman, C.P.R.
D. S. Lyons, General Chairman, C.P.R.
W. R. Rogers, General Chairman, C.N.R.
W. A. McGuire, General Chairman, C.N.R.

Brotherhood Railway Carmen of America

Frank McKenna, Vice-President.
 Jas. Corbett, General Chairman, C.N.R.
 G. O'Neil, General Chairman, C.N.R.
 R. Macrorie, General Chairman, C.N.R.
 Amos Astin, General Chairman, C.P.R.
 W. Chisholme, General Chairman, C.P.R.
 L. Beaudry, General Chairman, C.P.R.

International Brotherhood of Boilermakers' Iron Shipbuilders and Helpers of America

W. J. Coyle, Vice-President.
 A. M. Milligan, Vice-President.
 John Thomson, General Chairman, C.P.R.
 E. J. Bull, General Chairman, C.P.R.
 H. Poulley, General Chairman, C.N.R.
 D. Holtby, General Chairman, C.N.R.
 J. O'Neill, General Chairman, C.N.R.

International Brotherhood of Blacksmiths, Drop Forgers and Helpers

W. Powlesland, Vice-President.
 D. Watson, General Chairman, C.N.R.
 D. Langland, General Chairman, C.P.R.
 F. Dinardo, General Chairman, C.N.R.

International Brotherhood of Electrical Workers

E. Ingles, Vice-President.
 F. A. McEwan, General Chairman, C.N.R.
 H. Hosfield, General Chairman, C.P.R.
 H. Russell, General Chairman, C.P.R.

United Association of Plumbers and Steamfitters

W. J. Bruce, Grand Lodge Representative.
 O. W. Crowthers, General Chairman, C.P.R.
 J. Ansell, General Chairman, C.N.R.

International Association of Sheet Metal Workers

Art. Crawford, Grand Lodge Representative.
 Frank Walsh, General Chairman, C.P.R.
 H. Davis, General Chairman, C.N.R.

International Brotherhood of Firemen, Oilers and Shop Labourers

Jas. C. Gascoyne, Vice-President.

International Moulders' Union of North America

R. Menary, General Chairman, C.N.R.

Commercial Telegraphers' Union of North America

G. R. Pawson, General Chairman, C.P.T.
 W. M. Lucas, General Chairman, C.N.T.

Division No. 4, Federated Railway Trades

R. J. Tallon, President.
 Charles Dickie, Secretary.

Trades and Labour Congress of Canada

Tom Moore, President.

I may add, Mr. Chairman, that Mr. R. J. Tallon, President of the Federated Railway Trades, is associated with me to answer any questions which may be put by the members of the Committee, and which I may not be able to answer.

The CHAIRMAN: Have all the senators here received a copy of your memorandum?

Mr. BEST: Yes.

The CHAIRMAN: Are there any questions to be asked Mr. Best pertaining to his memorandum?

Hon. Mr. LYNCH-STAUNTON: What is the meaning of the word "seniority" as used on page 21 of your memorandum, in clause (a) of your seventh submission?

Mr. BEST: Well, Senator Lynch-Staunton, you probably appreciate the fact that practically all our railways, I think all of them, have for many years had contracts with their employees, and "seniority rights" is a term that has been recognized in those contracts.

Hon. Mr. LYNCH-STAUNTON: That is what I do not understand. What are the seniority rights?

Mr. BEST: Let us take the case of a man who enters the service of the Canadian Pacific Railway as a locomotive fireman. Suppose he is ultimately promoted to the job of engineer. Then the time he has been in the service will determine his right to hold certain runs, for example, and to be given continuous work, perhaps, while there is work. That is to say, the senior man will have his seniority, the same as is recognized in the churches, sometimes, where the oldest man gets the best job, provided he can preach well.

Right Hon. Mr. MEIGHEN: Mr. Best, I would like to have your view on one point. Will you describe in your own words what difference there would be between the conditions now existing and those that would exist if your recommendations were made effective, that is any difference beyond the substitution of five directors for seventeen? And will you especially indicate to the committee what economies could possibly be effected?

Mr. BEST: Well, it is probably a large order to answer that question satisfactorily to the right honourable leader of the Senate. Those matters will have to be determined. I understand that the Bill imposes a statutory obligation on the two railways to get together.

Right Hon. Mr. MEIGHEN: What could they do if they got together?

Mr. BEST: We propose that for the settlement of matters in dispute there should be an arbitral tribunal.

Right Hon. Mr. MEIGHEN: The object is economy. Will you state a specific instance where a substantial economy could be effected?

Mr. BEST: Well, through co-operation, possibly in the elimination of some services, probably terminal facilities.

Right Hon. Mr. MEIGHEN: But how would you effect economies if you have to give everyone as good a position as he had before?

Mr. BEST: Of course, Senator Meighen, we frankly admit that we are greatly concerned with the human element. We have no apology to make for that. We are trying to stress human values rather than material.

Hon. Mr. LYNCH-STAUNTON: Is it not your suggestion that there should be no changes whatever in the present law or railway situation, except by reducing the personnel of the board of directors to five?

Mr. BEST: Not until there has been consultation with representatives of the employees. We think the welfare of the employees is of as vital concern as is the interest on rolling-stock that is idle.

Hon. Mr. LYNCH-STAUNTON: Have you recommended any change in conditions other than reducing the board to five members?—

Mr. BEST: I think we recognize that certain co-operative measures might be taken, but what we are contending for is that the human element should be considered in whatever is done.

Hon. Mr. LYNCH-STAUNTON: You want to protect—and quite naturally and properly—all the employees, so far as possible? Is that not the idea?

Mr. BEST: Yes, as far as possible.

Hon. Mr. DANDURAND: Mr. Best, it was suggested before the Royal Commission that there might be an abandonment, under one plan, of 2,000 miles of railway, and, under another plan, some 5,000 miles, without materially affecting the proper service to the public. Do I understand that you would not be specifically opposed to these abandonments, but that you would ask the railways to try to give due regard to the human element with a view to bringing about re-absorption of employees who would be thrown out of work by the abandonments?

Mr. BEST: We do not hesitate to say that the elimination of 1,000 miles of railroad to-day would accentuate the national problem, which we think is equally as bad as the present railway problem. No group is better acquainted with the situation than the forty representatives who are associated with me here to-day, because we have first-hand information of the difference between railway employment conditions that existed in, say, 1928 and those that exist to-day.

According to statistics we have now approximately 50,000 less than we had; and for the first seven months of 1932 we have had \$105,000,000 less of purchasing power than we had at the end of 1928. It seems to me, gentlemen, that we will further accentuate the condition—and that is only speaking of railway-men and their families, and the communities which are dependent on them—to say that regardless of that we are going to pull up more track; and as a responsible representative citizen of Canada, I cannot see that we are going to improve our situation or solve our whole problem. I have been connected with the railway for forty-two years, and in common with yourselves we have been paying taxation, but I cannot see it. I am not going into the causes, for those are dealt with by the Commission; but we cannot explain away the difference between the report of the Commission and what we are proposing. In a word, we are simply saying: Surely we have enough people in Canada to look after the human element first.

I am not one of those who say that it is illegitimate to make money. Do not misunderstand me, gentlemen. But here is the picture that we have all seen. In one of the worst years in the history of Canada, 1931, according to the best authority that I have heard, the head of the Chamber of Commerce of Canada, over \$226,000,000 was made in dividends in this country. I am not intimating at all that it was made illegitimately, but I want you to get that picture alongside the picture of almost three-quarters of a million people out of work. If in one yard in the city of Montreal there are 250 railway coaches idle, and 100 or 75 railway locomotives idle, someone—and it must be the public—is paying the interest on the bonded indebtedness. But many of those who make up the human element have already gone out and taken a step that no red-blooded Canadian wants to take—the step away from self-reliance—and have had to accept charity.

I travel across Canada from my native province of Prince Edward Island to Vancouver Island, and I know, I believe better than almost any member of Parliament, the conditions that prevail, and that many are suffering because they will not ask for charity. That is why we think many are comfortable and are getting relief.

My concluding thought is this. As a representative Canadian I say again that it is much better, even if we have to borrow, to subsidize the Canadian railways than to throw more men on the street to look after themselves.

Right Hon. Mr. MEIGHEN: Suppose you cannot get the money.

Mr. BEST: Well, I cannot answer that, Senator Meighen. I have never seen a time when we could not get money.

Right Hon. Mr. MEIGHEN: We are approaching that condition rapidly.

Hon. Mr. BEIQUE: How would you cure the trouble you have mentioned in regard to profits that have been made?

Mr. BEST: I would not venture a suggestion. I have said to many men, and I say this earnestly, that I never felt as impotent in all my life as I do now, and I know that there are many other men in political and religious life to-day, or engaged in the common tasks, who feel as I do. Yet I am ashamed of that feeling. I have not the solution, and I do not suggest that I have. All I say is that we as Canadians must shift the emphasis to human values. And we must have courage to do that. I do not know how it is going to be done, but I am convinced that there are brains enough in Canada to do it and that we do not have to go outside of Canada. I have as much confidence to-day in what Canada can produce as ever I had, even though some of our greatest captains of industry are crying out with all reverence "O, God, we have made a mess of things. What can we do?" They are as sincere as I am. I am just trying to place the feelings of our people before you, gentlemen.

Right Hon. Mr. Meighen has asked a question, and it is a pertinent question. I know it is hard to get money. It is also hard for some of our men to hear their kiddies say "Daddy, I am hungry."

Hon. Mr. DANDURAND: Mr. Best, you have spoken of dividends being paid to people. I want to call attention to the fact that these dividends come out of accumulated thrift, accumulated economies. Just now I have before me the case of widows whose husbands by sheer economy accumulated a little capital which was invested in stocks. Dividends have gone down, and the neighbours and relatives of these widows are now obliged to take care of them.

Remember, I would like to put by the side of your picture, which seems to mean that those who have have received, a picture of the very many thousands who have had because of their thrift and little economies, and who have purchased stocks which produce these dividends. Now, during the general depression they have lost the benefit of their economies.

Mr. BEST: I quite appreciate that, Senator Dandurand. I know men who, by the same token, have acquired a little money and purchased an extra home which they have rented, and which is their only source of revenue; but in many cases the person who has rented it is in the same position as themselves, and he cannot be put out.

Hon. Mr. LAIRD: I notice that through your presentation, Mr. Best, you have stressed the human element, particularly with regard to eventualities in the event of divisional points being changed or closed. Before asking my question I want to draw attention for a moment to the fact that in addition to railway men there are other people living in those divisional points. There is the storekeeper who has gone in to cater to the railway men, the poolroom proprietor who furnishes them with diversion; there is the hotelkeeper, the butcher, and so on. All those men have invested their money in those divisional points in good faith in the same way as the railway men. Now then, in case a divisional point is changed, you stress the paternal interests that should be taken in the railway men, that they should be reimbursed for whatever losses they have suffered by reason of such change. Does your paternalism extend far enough to include these other people who live at the divisional points and who will be affected in

exactly the same ratio as the railway men themselves, or is it your idea to confine the paternalism simply to railway employees and let these other people, who went in there in good faith the same as the railway employees, shift for themselves?

Mr. BEST: We are authorized to speak only for our constituents. In our memorandum we have not omitted any interests that have been built up; we have mentioned the churches, schools, banks and other institutions that will be affected if changes are made, regardless not only of the personal interests of these people but of their value to the community and to the nation.

Hon. Mr. LAIRD: Let me go a step further, then. If you are to include all these different interests as being entitled to compensation, where do you think the Dominion is going to get money enough to provide for the measures of paternalism that you propose to put into effect?

Mr. BEST: When you get into money matters I cannot answer; I am not a financier.

Hon. Mr. LAIRD: I am not talking of that at all.

Hon. Mr. LYNCH-STAUNTON: Is not this the position: You and your associates can see no way out of the present difficulty; it must be allowed to continue?

Mr. ROBERT J. TALLON (President of the Federated Railway Trades of Canada): I think the question should be coupled almost directly with the question put by Senator Meighen, that there is a Bill before the Senate, and in that way do our suggestions differ from the provisions of the Bill. In other words, if our suggestions were carried out what economies could be made in the operation of the railways.

Hon. Mr. LYNCH-STAUNTON: But my trouble is this: I cannot see that you make any suggestions to change the present condition.

Mr. TALLON: I am going to attempt to deal with it. When we speak of the "present condition" of the railways, I think we are speaking of a condition that has been built up in the past few years and has put the railway industry where it is to-day.

Hon. Mr. LYNCH-STAUNTON: I am speaking of the present plan of conduct of the railways themselves in their operation and financing.

Mr. TALLON: Might I answer in this way. All of us have realized what changes have taken place since the Royal Commission concluded its hearings. In other words, we must give full credit to the respective managements of the two railway systems for the economies they have effected with the machinery they now have in existence.

Hon. Mr. LYNCH-STAUNTON: I do not want to be thought to be ragging, because I am not at all. I want to understand you. It seems to me that you think all the desired ends we wish to attain can be attained under the present form of management and conduct of these railways.

Mr. TALLON: Having in mind the adoption of the Bill now before the Senate, we are suggesting certain changes or additions to it, and I think there is full scope and latitude for effecting essential economies that will be found necessary in the operation of the railways.

Hon. Mr. LYNCH-STAUNTON: That do now exist?

Mr. TALLON: Considering the Bill you have before you.

Hon. Mr. DANDURAND: By voluntary co-operation?

Mr. TALLON: By voluntary co-operation, with the suggested reference to a Tribunal. But we are objecting to what we think is a fundamental change in railway conditions in this country. I think the people of Canada are averse to the thought of one man dictatorship. The suggestions to the two railways that

certain things might be done to bring about economies in operation have to a considerable extent been adopted, and I would remind the Committee that the report of the Canadian National Railways which will be submitted to Parliament in a short time will show the economies that have been effected to bring about a reduction in operating expenses; the Canadian Pacific have also taken similar steps, and I think we shall find that the two railway systems have been able to make tremendous economies. I believe if the two managements get together as suggested by the Railway Bill they will be able to carry out 98 per cent of all the economies which either management might have carried out, and these economies will be carried out in a regular way. If the two railway managements cannot get together, we believe a better purpose would be served by appointing a board whose majority decision would be more in accordance with British and Canadian traditions, and which would be more acceptable to the public than giving to one man an arbitral veto power. That is one of our suggested changes in the Bill, and we believe it would bring about tremendous economies.

Hon. Mr. WEBSTER: What advantage do the brotherhoods think would accrue to the Canadian National System by writing down the capital liabilities? I should also like to ask what suggestions you have to offer in regard to the men in the mining districts of Cape Breton and the West who have been thrown out of employment through the closing down of the mines?

Mr. TALLON: I do not profess to be a financier, but I would point to the practice throughout the world when it is found that an institution cannot pay expenses. The railway history of the entire world is full of cases of railway companies privately owned going into receivership; then those railways have been purchased at a low price, in other words, their capitalization has been written down, and they have been put into operation again. I can readily see that something similar might be suggested with regard to capitalization of a publicly owned railway company; but I do suggest that it is not fair to call on the employees to make such a sacrifice in order that dividends may be paid on stock into which water has been injected in devious ways. I think it would be a much fairer proposition if we could get down to the capital figure on which we would expect to pay dividends,—if you want to put it that way. The capitalization is so absolutely fictitious at the present time.

Hon. Mr. DANDURAND: Why do you speak dividends when we are faced with the obligation of paying interest on the railway debt?

Hon. Mr. LYNCH-STAUNTON: You do not mean dividends in the ordinary acceptance of the word.

Mr. TALLON: I mean any surplus over operating expenses that is left to pay interest.

Some Hon. SENATOR: How would you handle the losses of operating?

Mr. TALLON: In a privately owned company they have devious ways of doing that. If we own a property I suppose we have to be responsible for the situation that follows from its operation. But that is getting rather far afield from our presentation.

Hon. Mr. CALDER: It seems to me that on the point raised by Senator Laird our Committee is going to have a great deal of difficulty. The suggestion contained in your memorandum, Mr. Tallon, is to the effect that when economies are made through the abandonment of lines or facilities or services the railway employees who are affected so far as their property is concerned should be confiscated. If we agree to that principle, what must we do with those other than railway employees who, through conditions prevailing everywhere in Canada at the present time, have to meet exactly the same situation? Consider the point raised by Senator Laird, the case of a merchant in a little town where a railway line is abandoned. Not only the railway employees are affected, for the

abandonment works hardship on the merchant and all other property owners. If we attempt to write into this Bill the principle that is apparently advocated, that the state must compensate a railroad employee whose property becomes practically useless to him as a result of some change that the railway deems necessary, is there not a possibility that we shall have to go very much farther? One of my fellow senators mentioned the case of a miner who has been working in a mine that is abandoned, and who has bought a home near that mine. Well, must the state step in and compensate the miner for the value of his property when he loses his job under circumstances of that kind?

I am simply asking for your views, Mr. Best. I am not saying that I am opposed to them, but we should know what they are before we make up our minds with regard to your memorandum. If we adopt in its entirety the principle that you are recommending, in as far as railway employees are concerned, then we must seriously consider the adoption of it with respect to all other classes of employees.

Mr. BEST: The principle has been accepted for many years. When the right honourable gentleman who is chairman of this committee was Minister of Railways, the Parliament of Canada accepted that principle, and ever since then employees have been compensated to a certain extent. If a terminal were abandoned under certain conditions, and employees had to leave their homes, they have been compensated under section 179 of the Railway Act. What we are asking for is an extension of that principle.

Hon. Mr. CALDER: I understand that principle applies in connection with the Canadian National.

Mr. BEST: In connection with all railways.

The CHAIRMAN: It is statutory.

Hon. Mr. CALDER: Suppose the Canadian Pacific decided to abandon part of its road to-morrow, would it be required, under existing law, to compensate employees?

Hon. Mr. MURDOCK: Under an order of the Railway Commission, yes.

Hon. Mr. CALDER: Your seventh submission, paragraph (c), at page 22 of your memorandum, is that the railways be required to

Provide that all employees who are compelled through co-operative measures to transfer to other localities in order to hold their employment, and so are obliged to sacrifice their homes, shall be adequately compensated for such sacrifices by the employing railway.

Do you ask that we go farther than existing statutes, or simply that existing statutes in this respect should be maintained?

Mr. BEST: Yes, we are asking that you go farther than existing statutes. In fact, you may recall that last year we had a bill introduced in the House of Commons, I think by the member for Algoma, which was in harmony with what we are asking for, that Parliament go farther than the present section 179 of the Railway Act provides, that is to provide for cases where a terminal is partially or virtually closed. We cited the situation at Big Valley on the Canadian National Railways.

Hon. Mr. CALDER: In brief, what did you ask for?

Mr. BEST: We asked for compensation for employees who incur loss through being forced to move as a result of partial abandonment by a railway. When that line between Calgary and Edmonton was diverted, the employees suffered loss.

Hon. Mr. CALDER: What compensation did you ask for?

Mr. BEST: Compensation for employees who owned property that was worth \$70,000 at that time and which is not worth five cents to-day.

Hon. Mr. DONNELLY: What was the fate of your bill before the railway committee in the Commons?

Mr. BEST: It was defeated before the railway committee. I think there were only about twenty-one of the sixty members present.

Hon. Mr. MURDOCK: I think there is a slight misunderstanding that should be cleared up by either Mr. Tallon or Mr. Best. I judge that some members of the committee are of the opinion that labour is contending it should not suffer any further losses. I do not understand that to be the case. My understanding is that labour recognizes fully the fact that it is going to suffer great losses, in addition to the heavy losses that it already has suffered, as a result of the economies that will be put into effect.

Mr. TALLON: My own hope is that we are not going to bear any more losses. I say with all sincerity that where economies have to be effected, the best parties for putting them into effect are the particular railway that is concerned and its employees. These parties are in the best position for understanding the many problems that arise in such circumstances, and therefore are able to get together for the carrying out of their plans. The railways might be able to get together themselves with respect to interests that dovetail. We are not objecting to that, but we do suggest that in any case where there is a dispute the Board of Railway Commissioners, or some such body, should adjudicate.

Hon. Mr. MURDOCK: Reference has been made to the effect that the abandonment of a terminal would have on the local storekeeper, pool-room proprietor, butcher, baker and—as one of my honourable friends suggests—bootlegger. It has been suggested that if we provide certain protection for railway employees who suffer loss through terminal abandonment, it might be argued later that we should protect all these other classes of people to whom I have referred. I should like either Mr. Tallon or Mr. Best to define the difference between those classes of citizens and railway employees. Many of those people in private business may have been placed in their positions by wholesale concerns, and they may be able to move elsewhere with profit to themselves, whereas a railway man who has given twenty-five or forty years to his calling finds that he is not able to make a move and continue in the same line of work.

Mr. TALLON: I was just going to suggest that I cannot make out any better case than Senator Murdock has done.

Right Hon. Mr. MEIGHEN: Mr. Chairman, I think the committee will permit me to say a word at this point. What I am going to say is dictated by the assumption, which I know is correct, as I think all the committee will agree, that we have some fair-minded men representing labour before us, and that the men that they represent are not only fair-minded but good citizens. I simply want to put before these gentlemen our position, which is perhaps as emergent, as tremendous in its demands and as imperative and peremptory as ever faced any Parliament. The contention of these gentlemen is that we must have regard to the human element. I do not think any member of Parliament anywhere, and certainly not in this committee, wants to disregard the human element further than he is compelled to do by overpowering conditions and economic forces that he simply cannot meet. The human element, especially as represented by labour, should be last to suffer and the least to suffer, but the question confronts us: What are we to do?

Mr. Best says "Borrow more money. I never saw you yet that you could not borrow money." Surely he knows that up to a point you can borrow money, but that beyond that point you cannot; and possibly that you should not borrow money even up to that point, because by doing so you are hurting instead of helping.

The report of the Royal Commission showed that in order to cover up essential payments that had to be made or repudiated, thereby staining the

name of Canada with dishonour, \$456,000,000 had to be borrowed to cover interest on investment; and \$456,000,000 more were borrowed—practically the same amount—for new expenditures. We have been borrowing at a pace that had saddled us with over \$900,000,000 in nine years, and substantially more since. I am not an alarmist, and I hope that Mr. Best and all others present will understand me when I say, to begin with—and I do not want to say anything which in the slightest degree will damage the credit of Canada—that every human being knows that the process of borrowing brought us to the point where our credit was very seriously affected everywhere, even in our own midst. One does not need to look back more than three or four weeks to see one of the proofs of the statement I have made. We were doing just what Mr. Best thinks we ought to do—co-operating by pleasing everybody—and we have got to a place where we have to right-about-face or there will be a crash in which the railway men will suffer first, labour will suffer next, and the whole Dominion will be in a state of chaos.

He said we have done quite a bit already. How have we done it? Have we done it without labour suffering as a result? Not at all. Labour has suffered every step of the way—we all have; thousands of men are out of work, and while in the main they are not railway men, some are. Labour had to suffer. There was no other way out, and if we continue as we have been doing, it will have to continue to suffer. That is the position we are faced with, and we have to deal with it. I ask in his heart of hearts does he think that we can deal with it on the recommendations he has put before us.

Someone has suggested that we would get ninety-eight per cent. For the life of me I cannot see how we would get one. I have put the pointed question to Mr. Best, as a railway man and as an intelligent man who has had to do with railway affairs all his life, and asked him to tell me of one instance in which we could make a saving if this is adopted. Can we close a terminal here and make a saving? I do not see how we can. We have to compensate those who suffer. That is plain in the memorandum. Just how much one is to suffer he is ready to let a tribunal of the whole Railway Commission, instead of a tribunal of one man, decide. But still we have to pay.

It must be manifest to the representatives of labour—and I wish you would tell your people—that if we do that, assuming that we save a little, we are still going down the hill. It may be that the pace is less rapid, but nevertheless, we are going down, down, down. We have to start up, or face the consequences.

This committee is one of the instruments of government, one of the elements and factors in meeting the situation. I have given an undertaking to Mr. Murdock, at his urgent request, that we shall not do anything, even in the present desperate or almost desperate circumstances, to take away any right that railway labour has. I think we all recognize that it has a right that no other body of labour has ever been given by Parliament—that right in respect of terminals, and the power of the Railway Commission to offer compensation. Does Mr. Best think this is a time when we can possibly extend the scope of those rights, at the same time ignoring the rights of labour in all other fields to similar compensation? Can it be done?

In coming before us and urging what is set out in the memorandum, do not these representatives bring upon themselves the responsibility of telling us that we can do what they recommend and at the same time improve the present position? And will not Mr. Best acknowledge that we just cannot go on borrowing; that it cannot be done? We may have to do it to some extent, but it is going to make it tremendously difficult for us before we turn the corner. The argument that we should continue to go on has to be answered with a thunderous no. I mention this to show the preemptory character of the problem that we have to face. We have to find a solution, and while we want to find it with the least possible injury to labour and all others interested, nevertheless, we have to find it at all costs.

Another thing that Mr. Best said was that we had \$234,000,000 of interest upon investments. That sounds very big and imposing. But is not this true, Mr. Best: first of all, that that is mainly the money of life insurance companies and other similar organizations who are the trustees of the small savings of the great mass of the people? Do you want us to imperil that? If you do, who is going to pay the penalty? It is going to be paid by millions of humble people of this Dominion. But whether it is the individual or not, is it not the fact that the coupons which to-day are being clipped by our banks have been taken in payment of indebtedness? Some of us could speak rather feelingly about that. There is a limit to which you can go, and I imagine that if the gentlemen were right close to the problem they would see that if we have not already overstepped the limit we are pretty close to it. I have said this to help towards a realization that this thing is of gigantic importance and far-reaching consequence. Our duty is a tremendous and most responsible one, and we cannot evade it or side-step it, and while we want to do our duty with the least possible injury to anybody, we cannot meet the wishes of everybody.

The CHAIRMAN: Gentlemen, if no one else wishes to ask Mr. Best any questions, I imagine we may regard his presentation as completed. I must compliment you gentlemen for having so good a man as Mr. Best to present your case. It is a most difficult situation. I have always found Labour ready to meet situations half way, and I think we must come as close as we can to a solution that will be comparatively satisfactory, and trust to all those interested to be willing to accept their share of the burden that we all must assume to straighten out this difficulty.

Mr. BEST: Mr. Chairman, may I express my appreciation to yourself, to the right honourable leader of the Senate, Honourable Mr. Meighen, and to the other honourable gentlemen present for the courtesy with which you have received our delegation, and for the very moderate interrogations which you have put to us. I know you did not expect that we would answer all the questions that you put to us.

The CHAIRMAN: You came as close as most people do to answering them.

I have received the following cable from London, England, dated November 20:—

Chairman, Railway Committee, The Senate, Ottawa.

Section ten of Railways Bill as read October 27 affects our statutory voting privileges conferred by Anglo-Canadian Agreement embodied in Grand Trunk arrangements at chapter 56 of 1862, amended 1873. Imperial and Quebec Governments should concur with us regarding amendments. Please cable if your Committee is disposed to hear us.

Hawkin, Trunk Pref., London.

Mr. Hawkin represents certain Grand Trunk shareholders who I believe are now in litigation with the Canadian Government. He complains that section ten of this Bill will interfere with voting rights. I should like the leader of the Government and the leader of the Opposition to give us their views as to what reply should be sent to Mr. Hawkin. I understand the Royal Commission in reply to a similar cable sent to them, stated that the matter was now sub judice, and that it would be improper to hear any representations.

Right Hon. Mr. MEIGHEN: Gentlemen, it will be remembered that in 1920 an agreement was made with the Grand Trunk Directorate, ratified by their shareholders—they on the one side, the Dominion of Canada on the other—under which the Dominion of Canada became the owners of all the stock, common and preferred, of the Grand Trunk Railway, assumed the interest and the debenture stock and bonds, and agreed to pay for that common and preferred

stock such a price as would be found by a tribunal of arbitration, which was selected by the two parties. The tribunal found that the stock had no value. The Grand Trunk then became obligated to turn in that stock to the Government of Canada without money and without price. I think the main part was turned in, and the statute which confirmed the agreement declared that stock to be the possession of the Government of Canada.

The cablegram just read has been sent on behalf of certain minority shareholders. They now claim on certain legal representations that they still have an interest. They have entered action against the the Grand Trunk and, I think, against the Canadian National and the Government of Canada. They deny that they are in any way bound by the decision of the majority of the stockholders as embodied in the agreement entered into, and now they say that because of something away back in 1862 they have still some voting rights in respect of the Grand Trunk.

I have only to recite this to make clear that aside from the question of the legal position they may be in, or may perhaps conceivably establish, Canada has taken its step in this matter. The die was cast years ago. By that step we must abide; we cannot retrace that step. If those minority shareholders can establish damages or anything of that sort, that is one thing—I cannot for the life of me see how they can—but we cannot retrace that step any way. They say they have these voting rights because of our statute of 1920. That statute declared these stocks to be the property of Canada, pursuant to the arbitration. But because they say that statute is invalid they want to be heard before this Committee. No matter what in the world they might represent to this Committee, it is clear as a pike staff that the Committee could do nothing; and that they know just as well as we know.

If you wish to hear them, I have no objection, but I suggest we say to them that the matter is sub judice, that we are hearing all who desire to be heard, but we fully expect to conclude our sittings before the adjournment of Parliament, and as nothing could possibly be done at the present time, no matter what representations they might make, we do not advise their seeking to be heard.

Hon. Mr. DANDURAND: I wanted to be sure I was correct in my assumption as to what rights they might seek to establish before the tribunal. I do not know when that stock was put on the market, but I think I am safe in saying that it never earned, nor was it paid, any dividend.

Right Hon. Mr. MEIGHEN: It was once. The preferred stockholders received a dividend. I cannot speak of the common. There were three classes of preferred stock. But in the words of Mr. Smithers, at the time he appealed to the Government for help, they were at the end of their tether. They paid dividends that they never should have paid. The fact is that the arbitration tribunal found the stock to be worthless. Everything in Canadian railway policy has proceeded on the assumption that that finding was valid and binding, and if it is ever found not to be valid and binding, all that possibly could be done would be to grant them redress by way of damages. At all events this Committee could do absolutely nothing.

The CHAIRMAN: Anything we did say or do would have no effect whatever?

Right Hon. Mr. MEIGHEN: None whatever.

The CHAIRMAN: Is it your wish, gentlemen, that a message be sent to Mr. Hawkin, the representative of the Grand Trunk minority shareholders, along the lines suggested by Mr. Meighen?

Some Hon. MEMBERS: Agreed.

The CHAIRMAN: We will now hear the Halifax deputation.

Colonel E. C. PHINNEY, K.C. (President of the Halifax Harbour Commissioners): Mr. Chairman and honourable gentlemen, I am appearing to-day on behalf of the Government of Nova Scotia, of the corporation of the city of Halifax, and of the Halifax Board of Trade. On behalf of those bodies I wish first to thank this Committee for the privilege which you have given them of being heard in respect to the provisions of Bill A.

And, Mr. Chairman, I think I can safely say that the people in my part of the country feel it is very fitting that this important and urgent matter, which has been said to be the biggest problem that we have ever been called upon to face in Canada, should be before this committee. It is my sincere opinion that our people look upon this railway committee of the Senate as one of the most important public bodies connected with Parliament.

Before I go further may I correct an impression that some honourable members may have? One of the Ottawa papers stated yesterday that I was an expert on transportation. I want to deny that, for I am appearing here solely as an advocate for those bodies which I have the honour to represent.

May I also say that in the brief which I wish to present I have referred to various sections and subsections of the Bill by the numbers given to them in the original Bill. I did not have an opportunity of seeing the revised draft of the measure until yesterday.

Now, I think it would be much quicker, simpler and clearer if I were to read my brief, and with your permission I shall do so. (Reads):—

It is hardly necessary for me to state that these responsible bodies which I represent, approach this subject with a full realization of the serious matters involved and the absolute necessity of finding a solution for the tremendous, and what would appear in many instances to be almost insurmountable difficulties, surrounding our Canadian transportation situation. With this factor fully in mind, I shall attempt to place before you the considered opinions of these interests upon whose behalf I appear here to-day, in respect to certain of the provisions of Bill A.

It surely will be helpful to your committee if there is brought afresh to your minds at this time certain of the major considerations which are now uppermost in the minds of various sections of this country in respect to this transportation problem, and I do not wish it to appear in discussing the position of Nova Scotia and the city and port of Halifax, and in bringing to your attention certain of the features which deeply concern that portion of Canada at the moment, in respect to the future transportation policy of Canada, that I do so from a selfish sectional viewpoint. I submit that if a solution is to be found in respect to the problem at hand, it must of necessity be one in the interests of the people of Canada and, therefore, in order to find this solution, it should not only be the privilege, but it should as well be the duty, of the provinces to place before your committee their position, in order that no pertinent major factor may go without consideration in your deliberations in respect to the Bill now under discussion. It is, therefore, my desire to emphasize this point, namely, that while it will be necessary for me to present to you in a general way transportation problems which may be peculiar to Nova Scotia or the Maritime Provinces, I do so entirely because these factors must of necessity be involved if decisions are to be made in the interests of all Canada. To avoid a consideration of what some might term provincial or local viewpoints at this time, might well result in conclusions being arrived at which were not in the interests of all Canada. However, I shall confine myself to only such factors as appear to be very pertinent in a broad discussion and consideration of Bill A.

A study of the report, recently presented by the Royal Commission, appointed to enquire into railways and transportation in Canada, leaves no

doubt that this matter has been the subject of a most searching enquiry by gentlemen of great experience and ability, and furthermore, indicates beyond any shadow of a doubt that remedies must of necessity be found forthwith which will tend, in a substantial way, to relieve this country of an unbearable financial burden. At the same time, the report guards throughout, the principle that adequate transportation facilities must be maintained, and firmly reiterates the basic policy in respect to transportation and traffic which is the very foundation of our confederation, namely, "that upon the East and West channel of communication depends the political, no less than the economic, vitality of Canadian confederation." However, a review of the basic recommendations of the Royal Commission raises several questions and engenders some considerable fear in the minds of the people of Nova Scotia as to what their future may be if these recommendations are entirely implemented by statute, and it is with these factors that I shall deal.

It is clearly stated in the report of the Royal Commission that "Transportation in Canada—whether by water, road, rail or air—is and always has been dominated by the physical geography of the country." Nova Scotia and the other Maritime Provinces, situated as they are at the eastern extremity of Canada and separated from the province of Quebec by a large stretch of comparatively unproductive territory, make it entirely necessary that geographic features be given constant consideration in treating with the general Canadian transportation policy. The ports of Halifax and Saint John, located as they are on the Atlantic seaboard, offer the only eastern avenue during many months in the year for the free passage of Canadian export and import traffic via Canadian soil, and yet handicaps of distance must be overcome in the adequate use of these ports.

In other words, to permit us to adequately carry Canadian traffic—import, export and domestic—over Canadian transportation facilities, we must bring the ends of this great country towards the centre. To do this requires adjustments of freight rates and considerations in other directions. Canada, in an endeavour to do this, has established and accepted what is known as the east and west policy. Any suggestion that lays this policy open to invasion in any particular will be bitterly opposed by the province of Nova Scotia.

At the same time, it must never be forgotten that the promise of railway construction formed an integral part of the Confederation arrangement of 1867 and, furthermore, it must also continuously be borne in mind that 250 miles of non-commercial railway line was constructed because of the fact that the I.C.R. road was laid out along the long circuitous route of the Royal Engineers' Survey of 1847 in order to give military advantage to Canada. In the words of the Duff Royal Commission, page 76:—

"Thus excessive length and costly construction were added to the economic difficulties of bridging the unproductive gap between Central Canada and the Maritimes and any real prospect of profitable operation was excluded from the start."

The Royal Commission on Maritime Claims, presided over by Sir Andrew Rae Duncan, very ably and thoroughly carried on its investigations and made its report in 1926. That Commission's investigation into transportation and freight rates, as the same affected and applied to the Maritime Provinces, was exhaustive and its report in respect to this particular feature should, I submit, be carefully reviewed at this time. However, for the sake of brevity, I will only quote one portion of this section of the report, which reads as follows:—

"It is unnecessary to pursue the arguments in detail. From some angles it could, no doubt, be urged that the construction of the railway (the Intercolonial) was as much a concession to the demands of the Maritime Provinces as an inducement held out by the other provinces

to make Confederation more attractive to the Maritimes. We think, however, that a balanced study of the events and pronouncements prior to Confederation, and at its consummation, confirms the representations submitted to us on behalf of the Maritime Governments in regard to the ultimate construction of the railway, viz.:—

“(a) That leading Canadian statesmen in urging the adherence of the Maritime Provinces to Confederation defined the purposes of the railroad to be—

“(I) A means of affording to Canadian merchandise, and to Canada herself in times of national and imperial need, an outlet and inlet on the Atlantic ocean—available all the year round—and

“(II) To afford to maritime merchants, traders and manufacturers, a market of several millions of people instead of their being restricted to the small and scattered populations of the maritimes themselves, particularly in the light of the disturbance with which their trade was threatened as the result of the discontinuance by the United States of the reciprocal arrangements that had prevailed.

“(b) That strategic considerations determined the actual course of the line—making it many miles (estimated by Sir Sandford Fleming at 250 miles) longer than was necessary—if the only consideration had been to connect the cities of the Maritime Provinces with those of the St. Lawrence.

“(c) That to the extent that commercial considerations were subordinate to *national*, *imperial* and *strategic* considerations, the cost would be borne by the Dominion and not by the traffic that might pass over the line.”

At the same time, I would like to refer you to section 145 of the British North America Act, 1867, which reads as follows:—

“Inasmuch as the provinces of Canada, Nova Scotia and New Brunswick have joined in a Declaration that the construction of the Intercolonial Railway is essential to the consolidation of the Union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement within six months after the Union, of a railway connecting the river St. Lawrence with the city of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.”

In order to give the pre-Confederation viewpoint of the people of Nova Scotia in respect to the Confederation agreement, I herewith quote from the arguments of a Nova Scotian delegation in 1857:—

“An Intercolonial railroad would give the means of communication at present wanting. It would open to Canada an Atlantic seaboard on British soil, from which she is now cut off; and would offer to the lower provinces a ready access to the vast field of enterprise and progress occupied by their fellow subjects in the interior. It would prove a benefit of incalculable value, should it be the precursor of, as it is an absolute necessity towards, a legislative union of Her Majesty's North American provinces—a measure essential to the full development of the power which their situation and character are calculated to confer, and without which they never can attain the high position to which their united energies and advantages would lead them.”

My submission in respect to the Intercolonial Railway is that the present operation of this road by the Canadian National Railways has raised many questions, particularly in respect to the removal of authority of management from the Maritime Provinces. There is a strong feeling in many sections of the Maritimes that the I.C.R. should revert to government operation. There is an equally strong feeling in other sections of the Maritimes that the operation of this road should remain with the Canadian National. The I.C.R. not only traverses a long, comparatively unproductive mileage for reasons already stated, but forms the Eastern Atlantic terminus of the main Canadian National transcontinental system, and for this reason, enjoys a much less density of traffic than does a portion of the line operating in two directions. Furthermore, the Atlantic region is charged with inevitable heavy ocean port terminal costs, which, in ratio, reflects against the cost of operation of this line. Whatever the future may hold for the I.C.R., this much is certain, that the people of the Maritime Provinces will expect the situation to be continuously dealt with, from the standpoint of intimate knowledge and sympathetic consideration of all facts surrounding this road from its inception to the present time. Maritime representation on the Board of Trustees is the only practical way to ensure that this is done.

I might also add that the position of the Intercolonial Railway prior to its consolidation with the Canadian National Railway system was, that it was acting in conjunction with all railway lines in Canada and the United States, with the result that, so far as it was possible, through rates and services were provided. The situation was not entirely satisfactory owing to interlocking arrangements between other railway companies in Canada and the United States which tended to quite an extensive use of certain American ports as against Canadian ports. Some improvement has been experienced in this direction since the Intercolonial Railway has been joined with the Canadian National system, but the Canadian National have interpreted their mandate as being that the Intercolonial Railway should act entirely as a component part of the Canadian National system.

As a result, immediate steps were taken by the Canadian National to force the Canadian Pacific out of Intercolonial territory with respect to all services such as freight, passenger, express, telegraphs, etc., and to-day the Intercolonial is largely subservient to traffic which can be generated by the Canadian National.

This situation is far from satisfactory in the light of existing railways in Canada as it practically completely excludes a larger portion of the Maritime Provinces from participation in traffic and the different enterprises carried on by the only other large railway system in the Dominion; namely, the Canadian Pacific. It goes further and excludes the greater portion of the Maritime Provinces from any participation by the Canadian Pacific with United States carriers who have arrangements for interchange of traffic with the Canadian Pacific. It, therefore, leaves the Port of Halifax as the only major port in Canada now not served directly by both railway companies.

It must not be forgotten that the Intercolonial Railway was built by the Dominion Government for the purpose of connecting the Maritime Provinces with the rest of the Dominion and was not conceived as ultimately to be part and parcel of one particular railway system.

It is suggested in some quarters that until such time as a policy is adopted which will give all railway lines in Canada equal access to Intercolonial territory, the effectiveness of this particular railway system in the economic welfare of the territory which it serves will be seriously hampered.

The people of the province of Nova Scotia have always been apprehensive, and rightly so, of the creation in Canada of two large transcontinental railway systems extending their jurisdiction over such a tremendous territory that it would be impossible for those in control of the system to adequately appreciate the problems and requirements of each section. This more particularly so as the natural tendency of any railway company is towards centralized authority. The

experience of the province of Nova Scotia during the past decade has amply justified this apprehension. I will be referring to this phase of the problem again but it is sufficient here to state that, in the light of past experience, the province of Nova Scotia views with considerable apprehension the creation of a board of trustees for the Canadian National Railways and a board of arbitration in manner as contemplated by the Bill, which will be given powers considerably in excess of those ever granted to the directors of the Canadian National or the Canadian Pacific.

It must be specifically noted also that as a result of the investigation and recommendation of the Duncan Royal Commission, the Maritime Freight Rates Act came into being, which Act did not wholly implement the recommendation of that Commission. In one respect, however, it went far beyond the recommendation of the Duncan Commission in regard to the payment of deficits of the Canadian National Railways in the operation of their Eastern lines. The result has been a continuous confusion in the minds of Canadian people as to the cost to this country in administering the Maritime Freight Rates Act and an unfair impression has been broadcast throughout this country that this Act is costing several times the amount of what actually is the cost involved in respect to its operation.

From July, 1927, to December, 1931, there was paid to the Canadian National Railways in accordance with the recommendation of the Duncan Commission, \$9,646,000 on account of rate reductions, whereas the deficit and subsidy provisions under the Maritime Freight Rates Act (which did not follow the Duncan Report) amounted to \$20,129,000, which latter payments brought no benefits to the Maritime Provinces. In this regard, may I refer to section 48 of the Report of the Royal Commission on Railways and Transportation in Canada, 1931-32, and for the purpose of emphasizing the viewpoint of that Commission in respect to this feature, I quote herewith the entire section, pages 17 and 18:—

"In our analysis of the Canadian National Railway accounts it has been necessary to recast the operating figures since 1927 to include the Eastern Lines with the System figures.

"The Maritime Freight Rates Act of 1927, as applied to the Canadian National Railways accounts, results in the exclusion of all operations of the company east of Levis from the System figures and the production of a separate operating return.

"No good purpose is served by such a division in the account, and a great deal of confusion arises through the present method of presenting two separate deficits.

"This commission is of the opinion that the Maritime Freight Rates Act should be applied to the Canadian National Railways in a similar manner as that of other railways within the territory described in the Act, and that steps should be taken to provide for the inclusion of Canadian National Eastern Lines operating accounts as part of the System accounts, so that the Canadian National Income Deficit shall be all-inclusive."

I appreciate that this recommendation should be implemented by an amendment to the Maritime Freight Rates Act and is not a matter to be specifically dealt with in Bill A.

However, may I say a word regarding operations under the Maritime Freight Rates Act to indicate what a heavy burden can be placed upon the Maritime Provinces by an unsympathetic railway management, in the endeavour of these provinces to maintain the general utility of the Act. Serious inroads have been made into effectiveness of the Maritime Freight Rates Act (particularly this past year) by the railways indiscriminately reducing east bound rates to meet

certain forms of competition. Notable in this regard are reductions made in rates from Ontario and Quebec to the Maritime Provinces to meet water competition. These rates apply on many products which are competitive with those produced in the Maritime Provinces. The imposition this year of a low scale of rates on grain and grain products in bags from the Northwest, Ontario and Quebec to Maritime terminal points without the milling in transit privilege, has seriously affected the numerous small milling plants located on the railway lines throughout the province of Nova Scotia. Many other instances could be quoted. The purpose of referring to this factor is to clearly indicate, that although the Maritime Freight Rates Act was made law for the purpose which is well defined in the Act itself, it in many respects becomes impotent if the operators of the National Railways fail to observe the true intent and purpose of the Act. In answer to this, one may say that it is the duty of the Maritime Provinces to carry all such cases to the Board of Railway Commissioners, but the fact is that to have sought remedy in this manner this past year would have occupied a staff of lawyers and traffic experts continuously. The future utility of this Act may, therefore, rest, to a large extent, upon the knowledge and understanding of the Board of Trustees, as proposed in the Bill.

It might also be added that the legal departments of these centralized trans-continental railway companies have, in recent years, gone so far in pressing claims of the railways without regard to local conditions, that strong protests have been made against these companies imposing upon communities a heavy financial burden in maintaining a just and sound position to which they were entitled. With control centralized in three trustees as contemplated by the Bill, we will be in probably a much more unsatisfactory position than has ever been the case.

Another feature in railway transportation which always has been, and is, of intense interest and importance to the people of Nova Scotia and of the Maritime Provinces, is the adequate utilization of the National Transcontinental Railway for the purposes for which it was constructed, which broadly, yet briefly, can be stated to have been a further consolidation of the east and west transportation policy. The provisions of the Act of Incorporation under which that railway was built, namely—3 Edward VII, Chapter 71, and the Agreement attached to the schedule, particularly the provisions of sections 41, 42, 43, 44 and 45, clearly express the principles on which the railway was to be operated, namely—that freight should be carried, as far as possible, entirely on Canadian territory, and “That the through rate on export traffic from the point of origin to the point of destination shall, at no time, be greater via Canadian ports than via United States ports, and that all such traffic not specifically routed otherwise by the shipper shall be carried to Canadian ocean ports.” Whether wisely or unwisely, as we may now view the situation, this country, at tremendous cost, constructed this line and did so after the electors of Canada had definitely given their verdict in two general elections. Without going into the reasons at this stage, the fact remains that this railway has never been operated in accordance with the terms and provisions of the statute nor in accordance with the general purposes for which it was built.

Since 1925, the Maritime Provinces have continuously fought for the use of the Transcontinental, particularly in respect to the movement of grain from the head of the lakes to Canadian Atlantic ports for export. As an appeal in this matter from a decision of the Board of Railway Commissioners is now before the Governor in Council, I will not now deal with the case in any specific manner. It is sufficient to state that the results growing out of the Imperial Conference may greatly increase the necessity of using this road for the winter transportation of export grain to seaboard from the head of the lakes, as such a move would then make it possible to fully utilize the present elevator capacity at the Canadian Atlantic ports by providing a reservoir which could constantly be

drawn upon as an effective competitor to the Buffalo storage. If this were done, it could then be definitely stated that Canada has sufficient operating facilities to handle her winter export of grain to Empire countries without utilizing the grain handling facilities of the United States.

I point this out to indicate that the matter is worthy of careful consideration, but the part of this country that would very materially benefit if the Transcontinental were put into use as suggested, would be the provinces of Nova Scotia and New Brunswick, through the extended use of their splendid ocean ports. Here again, a board of trustees, intimately acquainted with the pertinent factors of their respective provinces, could go a great distance in ensuring the adequate solving of this problem in the interest of the nation. A board of trustees so constituted would protect outlying portions of the Dominion of Canada from being exploited by this large transcontinental railway system as was the case in the Maritime Provinces in the years immediately preceding the investigation and report of the Duncan Royal Commission on Maritime Claims. Without in any way attempting to infer that there was any deliberate attempt on the part of the Canadian National Railways to penalize the Maritime Provinces but rather that it was a natural outcome of centralized authority, the Maritime Freight Rates Act is probably the most outstanding example of where it was necessary for the Dominion Government to intervene and by legislation place certain restrictions on both transcontinental railways in order to protect these provinces.

In order to avoid any thought that it is in connection with the Maritime Provinces alone that statutes have been passed and are now in effect in Canada dealing with statutory rail rates, construction of railways themselves, and many other features of Canadian transportation, I would refer to one or two only of these instances, namely—to the Crow's Nest Pass Agreement, implemented by statute; to the terms upon which British Columbia entered the Dominion in respect to the construction of the C.P.R.; to the Hudson Bay Railway and the statutory rates which have been published to Churchill. There are many others that could be mentioned.

It, therefore, must be recognized that the Canadian transportation system has developed in many instances because of legal agreements which, in certain cases, formed the basis of Confederation or the reception of provinces into the Dominion after 1867, and in other cases, because of peculiar local positions which demanded adjustment, and which were adjusted on what was considered to be an equitable basis, implemented by agreement or by statute, or both. In the light of present-day knowledge and present-day conditions, people are prone to give little or no consideration to these fundamental factors and it is a common thing to hear statements made by responsible citizens that the time has come when, in the name of "good business," these situations must be altered. I submit that this country has no equitable or legal right to cast aside or to attempt to evade, by repudiation or otherwise, solemn agreements, which are the very basis of the association of provinces known as the Dominion of Canada, unless the provinces so affected are prepared to abandon their positions.

Very briefly, it is from this position that we approach our submission to you in respect first to section 3 of Bill A. This section provides that the Governor in Council may declare all nominations to the board of directors of the company heretofore made under the provisions of section 3 of the said Act to be vacated and may concurrently appoint three trustees, who shall be substituted for the original incorporators of the company and their successors, and may exercise "subject to the provisions of this Act, all the powers, rights and privileges and be entitled to all the immunities and subject to all the restrictions of the said board of directors, which board shall thereupon cease to exist."

A careful reading of the Royal Commission Report indicates quite clearly the major expressed reasons for the establishment of a board of three trustees (none of whom is to be affiliated with sectional interests), instead of a larger

body, in order that there might be avoided in the future what the Commission is pleased to describe as "political influence and public pressure" exercised by communities and by associations of business and labour interests. At the same time, there is vested in the Chairman of this small board of trustees the most arbitrary powers, exercisable within the scope of the Bill, and subject only to the provisions of other Acts, when such Acts are not inconsistent with Bill A.

It is immediately apparent that if this latter provision prevails, that the Canadian National Railways and, to some extent, the Canadian Pacific Railway, may and probably will be operated without any regard to the equities, geographical position, or peculiar requirements of the provinces of Canada. It is clearly and unmistakably proposed in the provisions of Bill A, read in conjunction with the Commission's report, that the affairs of the Canadian National Railways are to be conducted along lines of hard-fisted, cold-blooded business principles, and there is no saving provision in the Bill to restrict this in any way. Bill A should definitely provide that neither the board of trustees of the Canadian National Railways nor the arbitration board will have any jurisdiction to abrogate agreements with regard to rates which are now statutory enactments, such as the Maritime Freight Rates Act, and the basis of rates established in the Railway Act because of the Crow's Nest Pass Agreement.

Furthermore, there is no provision contained therein whereby the very foundation of this country, namely—the east and west traffic policy, is to be fostered and maintained by the board of trustees. The Commission so thoroughly fear the thought of sectional consideration by the board of trustees, that their recommendation, implemented by the provisions of section 4 of the Bill, provides that, in particular, no Senator or Member of the Commons and, in general, no person who, within five years, has served his country, whether federally or provincially, for salary payable directly or indirectly, is a fit person to sit on said board.

Thus, there is no room to doubt the major purpose of sections 3 and 4, namely—to thoroughly and entirely obliterate in the operation of our National railway systems any consideration of peculiar provincial interests, excepting such of those, if any, as the entirely disinterested Chairman of the board of trustees may of his own knowledge think worthy of consideration.

To still further remove the Chairman from localized influence, he can, in any instance, over-rule his two fellow Trustees. The Act does not make clear just what is the particular function of these two additional Trustees, but it would appear that they act chiefly in an advisory capacity. While the Act provides that "a majority vote of the Trustees, if it includes the vote of the Chairman as one of the majority, shall be final," it does not provide for a situation when the two Trustee members vote against the Chairman. In this event, the Chairman cannot act, as there is a deadlock, in which event an impossible situation is created. It is apparent, however, that the Trustees must not represent any particular section of Canada. However, human nature being as it is, it is impossible not to believe that such provinces or communities as provide the members for this Board, will be in a superior position because of the first-hand knowledge of their transportation history and present position, which will be available to the Board in respect to their transportation situations.

The Bill vests in the Board of Trustees powers and authority beyond the jurisdiction of Parliament itself. It presupposes that the Chairman will be a superman of vast wisdom and knowledge and free from all taint of bias or prejudice and with individual power way in excess of that possessed by the Prime Minister of Canada or any other Canadian statesman, in respect to our greatest national asset and problem. A body is to be created which without restraint has the power to wreck the east and west traffic policy, which, I repeat, is the very bed-rock of our national existence. In following the provisions of Bill A in respect to this feature we may be creating a "Frankenstein."

This, therefore, brings us to the issue in respect to this particular feature. Is the transportation policy of Canada to be now dictated from a standpoint of hard, cold business, without consideration of the geographical, contractual, equitable, and other factors which are involved throughout a large portion of our transportation systems, or are we to find some method whereby the principles of strict economy and good business may still be applied, but subject always to a consideration of the peculiar positions of the various provinces and major sections of this vast country.

While the bodies whom I represent before your Committee are fully cognizant of the great difficulties and problems which now face this country by reason of the development of our transportation systems along lines which, in many respects, have been uneconomical and unjustified, they do not feel that all the national considerations which have applied throughout the history of this Dominion to our transportation problems should be forthwith abandoned. It is realized, however, that solutions must be found, and found promptly. I urgently submit that the provisions of section 3 of Bill A not only offers to the small Board of Trustees and to the Chairman thereof with his arbitrary powers, the opportunity to abandon all national considerations, but, in view of the phrasing of the Report of the Royal Commission, and in view of the text of the Bill, it appears to me that said Board of Trustees and the Chairman thereof, are indirectly, if not directly, instructed that no considerations are to apply in their administration of the matters placed under their jurisdiction, saving and excepting only the consideration of hard, cold-blooded business.

I am submitting that there is another course which must be pursued if Canada is to maintain its east and west policy and give consideration to those features of our national existence which have always demanded, and always will demand, a consideration of geography, as well as due regard to previous Statutes and solemn agreements. To adequately safeguard these principles in the future operations of our national transportation systems, as the same may be conducted in accordance with the terms of Bill A as said Bill may be passed by Parliament, I submit that there should be a Board of not less than five Trustees appointed from sections of Canada, and offer as a suggestion that these sections could be allocated as follows:—

Maritime Provinces
 Quebec }
 Ontario }
 The three Western Provinces
 British Columbia.

It is more than probable that, in the interests of good management of the Canadian National Railways, labour should as well be represented on the Board of Trustees. This would ensure the appointment of a Trustee from each of these divisions, who could be selected not only because of his general ability and standing in the community, but also because of his knowledge of transportation affairs and the historical and local features thereof pertaining to his individual division.

Right Hon. Mr. MEIGHEN: Do you recommend a labour representative in addition to those five?

Mr. PHINNEY: I suggest that.

Right Hon. Mr. MEIGHEN: That would be six trustees?

Mr. PHINNEY: Yes.

Right Hon. Mr. MEIGHEN: Do you think it would be practicable to have a board of six?

Mr. PHINNEY: It would be difficult. So far as we are concerned we would not care if there were seven trustees. If the board had only six members, the chairman would of course have a casting vote.

Hon. Mr. DANDURAND: I thought perhaps you meant that the five trustees would include one who would be selected from one of the districts that you mention because of his familiarity with labour conditions.

Mr. PHINNEY: No, I am not suggesting that. I am suggesting that there be five divisional representatives, and a representative of labour, making a total of six, or seven if it is thought necessary to have that number.

The CHAIRMAN: You suggest that there should be one trustee to represent labour in general and no district in particular?

Mr. PHINNEY: Yes.

Hon. Mr. DANDURAND: You mean railway labour?

Mr. PHINNEY: Yes.

(Continues reading):—

I submit that the manner of dealing with this feature will definitely determine which one of the following policies this country is to adopt, namely—whether cold-blooded business considerations are to dictate the future operation of our National transportation systems without consideration to geography, equities, agreements, or future local requirements, or whether this problem is to be solved on the basis of sound business principles, tempered only by an equitable National consideration of the necessary peculiar requirements of the various parts of Canada and by maintaining the accepted policy of this country, namely, the east and west transportation policy.

Speaking for those whom I represent, I, therefore, urge the committee to give careful consideration to the appointment of at least five trustees representing the various major sections of Canada. I further ask that a provision be inserted in the Bill making it obligatory upon the Governor in Council to appoint trustees from defined sections of Canada, so that each of these sections will thus have the statutory right of representation upon the Board.

With reference to the extreme and arbitrary powers given to the Chairman of the Board of Trustees, I am instructed to submit to your committee that a majority ruling of the Board, whether or not the Chairman's vote is included therein, should prevail in all decisions of the Board. This will be more urgently required if the Board is composed of five or more members instead of three, as if the provision referred to is not altered, then a unanimous vote of four of the trustees might not avail as the Chairman could, as the section now stands, overrule or veto a decision of his entire Board. Such great authority and power vested in one man in respect to our biggest national undertaking, is not, in the opinion of those whom I represent, conducive to a proper and equitable operation of our transportation enterprises and would have the effect of nullifying the administrative usefulness of the remainder of the Board.

In summing up this portion of the submission, may I again refer very briefly to this fact—that, in our opinion, the future position of Nova Scotia within Confederation is, to a large extent, dictated by transportation considerations. Our position in this regard has not altered in its fundamental sense, since the time, when Nova Scotia agreed to enter into a Confederation Pact, subject to transportation facilities being provided by the Dominion along lines as referred to and provided for by section 145 of the British North America Act. In this regard, I wish to refer again to paragraph 9 of the Report of the Duff Royal Commission, wherein it is stated:—

“The promise of railway construction formed an integral part, not only of the Confederation arrangement of 1867, but also of the terms upon which Prince Edward Island and British Columbia later entered the Dominion. The obligation to the Maritime Provinces was discharged

by building, entirely at public cost, the Intercolonial Railway from Halifax to the Saint Lawrence at Riviere du Loup, by the construction of the Prince Edward Island Railway, and the provision of a train ferry between that island and the mainland."

Hon. Mr. BUREAU: One o'clock, Mr. Chairman.

Some Hon. SENATORS: Go on, finish the presentation.

Hon. Mr. BUREAU: Do you intend to make any remarks afterwards?

Mr. PHINNEY: Not unless I am required to do so.

The CHAIRMAN: I think we had better finish this before we rise.

Mr. PHINNEY: I wish to state emphatically to your Committee that, in the opinion of those whom I represent, the obligation to the Maritime Provinces was *not* discharged by building, entirely at public cost, the Intercolonial Railway. I submit that there is just as strict a duty resting upon the Government of this country to see that this railway is operated in accordance with the understanding and agreement, and in the light of its uncommercial mileage dictated in the national interests for military reasons, as there was resting upon the Government of this country immediately following 1867 to see that the railway was constructed. Any other conclusion would be absurd and could not be accepted by the people of Nova Scotia. I also maintain that there must be no infringement in respect to the provisions of the Maritime Freight Rates Act. Again, we shall continue to urge from Nova Scotia that the Transcontinental Railway be utilized for the purposes for which it was constructed and in manner and spirit as was dictated by the National Transcontinental Railway Act, and the Agreement annexed thereto.

Generally, it can be stated that the very essence of our future hope of prosperity as an integral part of the Dominion of Canada rests upon the maintenance of the east and west transportation policy.

Because of these and other equally sound reasons, I am instructed to urge upon your Committee that a direct provision be inserted in Bill A which will restate, that the transportation policy of Canada is to be an east and west policy and that due consideration must be given thereto in any and all Acts and decisions of the Board of Trustees in the administration of our transportation affairs, under the provisions of Bill A, when the same becomes law.

As to Parts 2 and 3 of the Act, we recognize that every human effort possible must be exercised in the elimination of duplications of facilities by the two transportation systems operating in Canada. There can be no dispute as to the necessity of this in the public interest. We are directly concerned that the Bill provides adequate safeguards so that the position of the province of Nova Scotia, as well as that of other major sections of Canada, and the people residing therein, are not unduly prejudiced.

A reading of the Bill appears to indicate that the Canadian National and Canadian Pacific companies are directed in the interests of economy to forthwith, or as soon as practicable, adopt such co-operative measures, plans and arrangements as shall, consistent with the proper handling of traffic, be best adapted to the removal of unnecessary, wasteful, or uneconomic services, to the avoidance of duplication in services or facilities, and to the joint use and operation thereof, etc. There appears to be no machinery set up in the Bill to effectually enforce the carrying out of this provision and, in view of the fact that the element of competition must still remain as between the two companies involved, it is expecting a great deal of the management of these two companies to anticipate that they will entirely and effectively carry out the intention of Part 2. It is only when these two companies do attempt to act under the provisions of Part 2 and an issue arises because of disagreement between the parties or otherwise, that

the provisions of Part 3 are brought into play. It is, therefore, apparent that in respect to any policy which may be adopted at the exclusive initiative of and solely by the trustees as to abandonment of facilities or curtailment of services of the Canadian National Company, there is no opportunity for invoking any of the provisions as contained in Parts 2 and 3 of the Bill. It, therefore, is also apparent that while the public may be given an opportunity to be heard in respect to any arbitration conducted under Part 3 of the Bill, there is, as the Bill now stands, no opportunity for the presentation of any case on behalf of the public or of any province or section of Canada if the abandonment or curtailment of any service or facility is one to be effected entirely by the Canadian National in respect to its own system and not at the instance of or in conjunction with the Canadian Pacific.

Right Hon. Mr. MEIGHEN: Is not that provided for in the Railway Act?

Mr. PHINNEY: It is. I point that out, Senator Meighen.

It is quite true that the Board of Railway Commissioners have authority under the Railway Act to deal with the matter of abandonment of railways or curtailment of services, but there is now being set up a board of arbitration which would have power beyond that of the Railway Commission.

Right Hon. Mr. MEIGHEN: That is only in the event of the very thing occurring that you say would not occur. You say where there is no appeal to the tribunal the Canadian National could abandon lines of its own accord. If there is no appeal to the tribunal the tribunal cannot act.

Mr. PHINNEY: Quite.

Right Hon. Mr. MEIGHEN: So this paragraph is wrong.

Mr. PHINNEY: I submit not. An arbitral tribunal is being set up whereby the two railways, having raised an issue, have the right of appeal to this particular tribunal to decide with reference to abandonment and that sort of thing. Now, if the Canadian National itself abandons lines, it in turn is brought before the Board of Railway Commissioners, and I am suggesting that the two questions should come before the same tribunal.

Right Hon. Mr. MEIGHEN: It is really the same. It is the same chairman.

Mr. PHINNEY: It is the same and not the same.

Right Hon. Mr. MEIGHEN: Your contention is basically in error.

Mr. PHINNEY: It is the intention that we should have one tribunal—I thought that was what we said—to deal with the question of abandonment and that sort of thing. I shall point out in a moment one or two of the reasons for that.

Assuming, however, that a dispute in respect to abandonment or curtailment of facilities does arise between the two companies involved, and the Arbitral Tribunal is set up to deal with the same, then under section 23 of the Bill, the presiding officer, who is the Chairman of the Board of Railway Commissioners, may or may not, in his discretion, give public notice of such a hearing and permit any person or body as defined in that section to be heard before the Tribunal.

I am instructed to submit to your Committee that section 23 be amended in manner as to make it obligatory upon the presiding officer of the Tribunal to give notice in every instance to at least the Governments of each province which may appear to be concerned, of every such hearing that is to take place, in order that the provinces themselves may determine whether or not the matter is one which requires representation by the province at the hearing.

In this regard, may I point out that under the provisions of Parts 2 and 3 of this Bill, the interest of any portion of Canada may be greatly affected. I would refer you, for instance, to section 19, subsection (e) of the Bill dealing with abandonment of lines, services or facilities. It is difficult to imagine any-

thing that would more directly concern a community than the abandonment of a railway line which had been in operation for some time, and when such a question is to be heard by the Tribunal the community affected should have the statutory right to be heard.

Again, may I point out that there is no appeal from the decision of the Arbitral Tribunal except upon a question of jurisdiction. May I also point out that the Tribunal Board, presided over by a Referee, in the person of the Chairman of the Board of Railway Commissioners, may over-rule any order of the Board of Railway Commissioners. This provision may lead to great confusion, as an order of the Board of Railway Commissioners is a majority order and the Chairman of that Board may not have concurred therein. But when he presides as Chairman of the Arbitral Tribunal, he may, if the situation arises, over-rule the order of the Board of Railway Commissioners, over which he presides in another capacity.

I am instructed to submit that there should be an appeal from the Arbitral Tribunal on questions of law, as well as questions of jurisdiction, and further, that the Arbitral Tribunal shall, when the same are pertinent, be bound by orders of the Board of Railway Commissioners.

May I finally draw to the attention of your Committee the fact that the presiding officer of the Arbitral Tribunal has under his jurisdiction as Referee, matters of tremendous importance and most far-reaching. In fact, in dealing with matters which may raise, for instance, under section 19, subsection (e), the decision of the Tribunal which may be, in effect the decision of the Referee thereof, may be most arbitrary and far-reaching and seriously effect the position of a community or communities. Yet, there is no restriction surrounding the appointment of the presiding officer of the Arbitral Tribunal as is found in respect to the appointment of the Board of Trustees under the provisions of section 4 of the Bill. Because of this, one is somewhat confused as to why the restrictions as set forth under section 4 of the Bill have been imposed and not at the same time applied to an official of the importance of Chairman of the Arbitral Tribunal.

It is the considered opinion of those whom I represent that the provisions of section 4 do not serve any particular good purpose, if the appointments to the board of trustees are in the hands of the Governor in Council. On the other hand, to bar from membership on the board of trustees those who may have, even in a most limited capacity, been guilty of accepting a salary for their services to the state, Dominion or provincial, during the past five years, might bar from appointment some of the most experienced and best qualified men in Canada. Just why a man is eligible for appointment to the board of trustees after a period of five years has elapsed since he served his country, and is not eligible after four and a fraction years only have elapsed, is difficult to imagine.

I am instructed to submit to your Committee that section 4 of the Bill be struck out on the ground that, for reasons stated, it not only serves no good purpose, but it may prejudice the best interests of this country in a severe and unwarranted restriction upon appointments to the Board of Trustees.

The CHAIRMAN: Would you strike out the whole section?

Mr. PHINNEY: Yes. I believe it is now section 5.

The CHAIRMAN: You take as an example a man who has received a small salary from the Government. You do not take a senator or a member of the House of Commons as an example.

Mr. PHINNEY: Yes, I have, sir. I state first that the Bill provides specifically that senators and members of the House of Commons are not proper people to sit on the Board.

The CHAIRMAN: You are rather against that?

Mr. PHINNEY: Very much against it, sir.

To sum up, I respectfully submit that the following amendments be favourably considered by your Committee in respect to Bill A:—

1. Increase of Board of Trustees to five or more, with provision for an equitable division of Canada into five divisions, one of which shall be the Maritime Provinces, and that each division shall be represented by an appointment therefrom to the Board of Trustees.

I am asking that the provision be made statutory.

2. The majority vote of the Board of Trustees to be final, where necessary the Chairman to have the casting vote.

I put that in in the event of the board being an even number, which probably it will not be.

3. That the Act shall specifically provide that the Board of Trustees shall be at all times guided by the east and west transportation policy and that the use be encouraged to the fullest feasible extent, of Canadian transportation facilities.

I ask, Mr. Chairman, that that be put in because of the fact that as the Bill reads the Board of Trustees are directed to proceed without regard to national equities. I ask that those equities be recognized.

4. That section 4, subsection 1, and the following words in subsection 2—

This has since been changed.

Right Hon. Mr. MEIGHEN: You do not want the panel at all?

Mr. PHINNEY: No.

—"from a list of eight persons then named by the remaining Trustees or Trustee" of the Bill be struck out.

5. That the public affected be notified of all hearings of the Arbitral Tribunal, in manner suggested.

That is, to the Government of the provinces.

6. That there shall be an appeal from a decision of the Arbitral Tribunal on a question of law, in the same manner as is provided in respect to a question of jurisdiction.

The reason we ask for that is this Arbitral Tribunal, while it is to be presided over by a lawyer or judge, because the Chairman of the Board of Railway Commissioners must have the qualifications of a judge, yet the other members may not be lawyers, and their decision may prevail.

Hon. Mr. DANDURAND: You suggest the majority principle?

Right Hon. Mr. MEIGHEN: It would be all right to say that in the event of the majority overruling the Chairman there should be an appeal on the question of law?

Mr. PHINNEY: Yes, that would be satisfactory.

7. That if the Canadian National Company, of its own initiative and without reference to the Canadian Pacific Company, proposes to abandon or substantially curtail any of its services or facilities, that it may only do so with the sanction of the Arbitral Tribunal after a hearing at which all interested parties have a right to attend and be heard.

That section as it stands is too broad. I am prepared to modify that after a consultation with my principals. What we want in place of 7, if there is to be any substantial abandonment, is that the portion of the country affected should have an opportunity to be heard. I am not suggesting what the wording should be, but that is the substance of what we are asking for.

Right Hon. Mr. MEIGHEN: That is to say, you want the Governor in Council to have authority to veto any act of the Trustees?

Mr. PHINNEY: Unless there are sufficient safeguards in this Bill to adequately preserve those features.

Right Hon. Mr. MEIGHEN: If you do that you are right back to Government responsibility for everything.

Mr. PHINNEY: I am satisfied if this Bill provides safeguards that the Board of Trustees be responsible. But if the Board of Trustees have authority to abandon, every provision we have built this country upon since 1867 should be safeguarded.

8. That section 22 of the Bill be wholly struck out.

I am suggesting that this section might cause tremendous confusion in dealing with railway matters. One never knows whether an order of the Board of Railway Commissioners would prevail.

9. That the last two lines of section 10 be struck out.

Hon. Mr. DANDURAND: Is it still section 10?

Mr. PHINNEY: No, sir; it is section 9, subsection 4. I am asking that the last four words of subsection 4 be struck out. Under that subsection the Board of Trustees would be responsible to no one at all.

10. That the Bill provide that this Act shall be subject to all federal statutory enactments dealing with freight rates.

With respect to that, I think probably it would be interpreted at the present moment that the Maritime Provinces Freight Rates Act, which I am particularly interested in, is still in existence in spite of Bill A; but if there is any doubt—and there is some doubt as I read these two Acts—it certainly will not harm the situation to preserve those Acts which provide for statutory rates and local conditions, so there can be no question of conflict between the two. All I ask is a safeguard in that respect.

The CHAIRMAN: Any questions?

Hon. Mr. CASGRAIN: You speak of a large non-producing section of the I.C.R. Whereabouts is that?

Mr. PHINNEY: The section of northern New Brunswick.

Hon. Mr. DENNIS: What would be the advantages or disadvantages if the Intercolonial Railway reverted to Government operation?

Mr. PHINNEY: Well, Senator Dennis, that is a very large question, and I know the committee has not time to hear me say anything about it now. But I will say that it is one of the burning questions, and will continue to be one of the burning questions, in the Maritime Provinces. My suggestion is that it must continue to receive the very closest kind of study and scrutiny. The situation must be preserved by a board of trustees who have the obligation imposed upon them to consider the equities and conditions which existed at the time of, and which surrounded, the building in the early days of the Intercolonial Railway. I could not attempt to answer your question now.

Right Hon. Mr. MEIGHEN: You say there are two schools of opinion in the Maritimes?

Mr. PHINNEY: Yes.

Right Hon. Mr. MEIGHEN: About evenly divided, are they?

Mr. PHINNEY: I could not attempt to say.

Hon. Mr. CASGRAIN: For the last sixty years you have had Government ownership and operation. Do you not think that has been the cause of all your misery?

Mr. PHINNEY: Decidedly I do not.

Right Hon. Mr. MEIGHEN: They have no misery there.

The CHAIRMAN: Are there any more questions to be asked of Mr. Phinney? I consider that he has made a very able presentation of the Maritime case, from every standpoint.

Hon. Mr. BLACK: Some of us may want to ask one or two questions bearing on what Mr. Phinney has said. If we do, may we have an opportunity when we reassemble this afternoon or to-morrow morning?

The CHAIRMAN: Certainly. We shall meet this afternoon or evening, if the Senate is not sitting.

The committee adjourned at 1.25 p.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 5

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

Mr. Gerard Ruel, K.C., Toronto, Ontario, former Vice-President, Canadian National Railways.

Colonel E. C. Phinney, K.C., Halifax, N.S., recalled.

Mr. A. R. Mosher, Ottawa, Ontario, representing the National Railway Labour Unions of Canada.

OTTAWA

F. A. ACLAND

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1932

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Honourable GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	L'Espérance
Barnard	Lewis
Beaubien	Lynch-Staunton
Béique	McArthur
Béland	Marcotte
Bourque	McDonald (<i>Shediac</i>)
Buchanan	McLennan
Bureau	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Daniel	Murphy
Dennis	Paradis
Donnelly	Pope
Forke	Rankin
Gillis	Raymond
Gordon	Robertson
Graham	Robinson
Green	Ross
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Lacasse	Turgeon
Laird	Webster.

[Quorum 9]

THE SENATE,

FRIDAY, November 25, 1932.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A, intituled "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 10.30 a.m.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: I have the pleasure now of calling on Mr. Ruel.

Hon. Mr. CALDER: Mr. Chairman, before proceeding with the usual work of the committee, I desire to give notice of a motion in order that it may be considered by the members of the committee during the day. I am not wedded to the wording of it at all, but it contains an idea as to certain action that I think we should decide to take, if necessary; there may be no necessity for it. This is the motion:—

That in the opinion of this committee, Parliament should not adjourn until January 30 next—

I understand that is the time fixed for the adjournment of Parliament.

—but should continue in session until such time as may be necessary to make effective temporary provision for the voluntary co-operation of the National and Pacific Railway systems, with a view to effecting such of the economies outlined in Bill A, as may be mutually agreed upon.

As I say, this proposed action may not be necessary; there may be sufficient authority at the present time to carry on voluntary co-operation with a view to effecting these economies. But I fear that the existing statutory provisions are not sufficient to make effective whatever economies may be considered advisable.

Hon. Mr. DANDURAND: When do you intend to put that as a formal motion?

Hon. Mr. CALDER: Whenever the opportunity arises in this committee.

Hon. Mr. BUREAU: Before we proceed, Mr. Chairman, is it the intention of this committee to wind up its business before the adjournment of Parliament?

The CHAIRMAN: I would not think it possible. There is an advantage in getting all the material that we have gathered here in the viewpoints that have been expressed and having it before us during the recess. As soon as Parliament reassembles next January we shall be prepared to do something.

Hon. Mr. BUREAU: We shall have the advantage also of gathering additional information during the recess.

The CHAIRMAN: We may.

Mr. Ruel, the committee, on the suggestion of Senator Dandurand, has invited you as an old experienced railwayman lately with the Canadian National Railways, to give us the benefit of your views. I think we will leave Senator Dandurand to deal with you mercilessly or mercifully as he may see fit.

Hon. Mr. DANDURAND: Perhaps I can put a question that will start Mr. Ruel along the lines upon which I should like him to give us his views. Doubtless he has read the Bill which is before us.

Let me put this question to you, Mr. Ruel: How would the principle of continuing the two railways as separate entities on a competitive basis compare in effectiveness to bring about the economies which we all have in mind with joint management of the two systems as you suggested to the Royal Commission on Railways and Transportation?

Mr. GERARD RUEL, K.C. (late Legal Vice-President of the Canadian National Railways): The question is very easily answered, Mr. Chairman. From my point of view what I call the compulsory co-operative plan is not an effective plan at all. I do not think that it is an effective plan because it is basically defective in this regard, that you do not get real co-operation with two parties who are dealing at arm's length. Under the compulsory co-operative plan you have necessarily to deal at arm's length. What we are looking for at the present time, and what I tried to stress in my evidence before the Royal Commission, was economy with co-operation. You cannot get economy if the two parties to any arrangement to be come to are dealing at arm's length, and each of them trying to get all the advantage that may be derived from his insistence on the economy being effected by the other chap. That is what it amounts to. You have to get mutuality—mutuality in advantage—and that is why in considering this particular Bill of my own—of which Senator Dandurand has given me a copy—I have tried to bring out that feature, the mutual advantage of every economy when effected, no matter what it may be. What we want more particularly is sane economy; we do not want destructive economy. My impression is that if we can get sane economy, effected by the two organizations working together in a friendly way, not at arm's length, in a very short time, possibly within a period of ten years, our two railway systems will be a credit to the country and will be paying dividends not only to the Canadian Pacific shareholders but to the Canadian Government as well.

That may seem to you to be a little strong. I think it is capable of being carried out, but, gentlemen, so much depends on the personnel you have working together to bring this about. You start out with these two sets of people, the set representing the Canadian Pacific and the set representing the Canadian National, and you tell them, "Get together and produce economies." Each one knows the other fellow is trying to produce that economy at his expense. Well, you will never get anywhere with that state of affairs; that is about what it amounts to.

That, sir, is the basic weakness of the compulsory co-operative scheme. Really there is no such thing as compulsory co-operation; it is a misnomer. Co-operation can only be achieved by mutuality, where the advantage is mutual; that is, the more you save the more it rebounds to the benefit of each party. If you have the Canadian National set desiring to effect economy at the expense of the C.P.R., or the C.P.R. set desiring to effect economy at the expense of the Canadian National, you will never get anywhere; you would have the parties fighting to begin with.

To avoid that state of affairs I brought in this bill of my own and submitted it to Sir Henry Thornton. At first he was quite taken with the idea that I have embodied here—co-operative effort for mutual advantage, dividing the savings from any economies, and making the effort effective. Then he swung over—I do not know how—to this compulsory co-operative plan. I told him the defect of that plan, as I saw it, was that we would never get harmony between the two parties, that it was based on the wrong idea. I still think so. I do not think there is any great danger of monopoly if you carry out this idea of mine. I notice Senator Meighen suggested at one time the danger of a monopoly. That danger does not suggest itself to me because the Bill, as I drew it, provided for entrusting agreements which are capable of being cancelled by Parliament. There can be no monopoly if Parliament can step in at any time and cancel those entrusting agreements.

Right Hon. Mr. MEIGHEN: Mr. Ruel, perhaps the Committee has not had your Bill before it. Will you explain just what it is, so the Committee will understand it?

Mr. RUEL: Possibly I can best indicate the scheme of my bill by reading the clauses. The bill is unfinished. As I said, I submitted it to Sir Henry and I put a little memorandum on the top stating that the question is whether this scheme is worth developing further. The decision was that it was not worth developing further, so I dropped it. But I presented the same scheme to the Royal Commission.

After the preamble, the first clause is:—

1. This Act may be cited as the Canadian Co-operating Railways Act.

Of course, it is not important what the Act is called. The second clause is:—

2. The Governor in Council may nominate such persons as may be deemed expedient, not less than five nor more than seven, and the Board of Directors of the Canadian Pacific Railway Company may nominate the same number of persons, who together shall form the Board of Directors of the company hereby incorporated, and upon such nomination being made the persons so nominated and their successors and such other persons as may from time to time be similarly nominated as Directors, shall be and are hereby incorporated as a company under the name of Canadian Co-operating Railways, hereinafter sometimes called the company and sometimes called the Managing Company.

The fewer persons you have in an organization of this kind the better.

The CHAIRMAN: You are proposing a new company?

Mr. RUEL: I would have a managing company.

Hon. Mr. CASGRAIN: A holding company?

Mr. RUEL: No, not a holding company, only a managing company. You know that at the present time the Canadian National Railway Company is managing the Canadian Government railways, under an entrusting agreement. We do not own the Canadian Government railways, we are only the manager of them, just the same as Mr. Pottinger used to be in connection with the Intercolonial. Under the scheme that I am suggesting each company would keep its own property but would entrust the management to a managing company. As a result you would get this feature, which I have never seen before—government ownership combined with private ownership, to the joint good.

Paragraph (2) of clause 2 reads:—

No stock ownership shall be necessary to qualify a director.

That is obvious, because no director of this company is supposed to own any stock.

Then there are provisions that the directors shall hold office until their successors are appointed, that any vacancy on the board may be filled by the Governor in Council, that the annual meeting of the company may be held at a certain time, that the company shall not have any capital stock, that the head office of the company shall be in Montreal, that the directors may be paid such sums as fixed by the by-laws, and that the board may appoint an executive committee and other committees.

Clause 8 is important:—

Upon the Managing Company being organized, such of the companies comprised in the Canadian National Railways as are listed in Schedule "A" to this Act, and such of the companies comprised in the Canadian Pacific Railway System as are listed in schedule "B" to this Act, shall execute entrusting instruments in the form set out in Schedule "C" to this Act, whereupon the Managing Company shall be entrusted for man-

agement and operation in every particular with the whole of the undertaking of the respective companies so executing, and with all properties, assets and works of whatsoever description, and interests therein, and all franchises, powers, rights or privileges with respect thereto; subject, however, to the provisions of this Act and to all statutes, obligations, contracts, agreements or duties (not inconsistent herewith) to which each of the companies so executing was subject at or before the time when the entrusting instruments come into effect.

The intention is that only the transportation companies shall be combined. For instance, the C.P.R. owns, as we all know, the Consolidated Mining Company. We do not want that included here, and it would be left off the list.

The CHAIRMAN: Would you include steamships in the list?

Mr. RUEL: Yes, if Parliament so desired. You could put in any company, whether a railway, steamship, express or telegraph company, that Parliament decided upon.

The CHAIRMAN: The bill would specifically set out the companies included in the agreement?

Mr. RUEL: Absolutely, yes. The bill would set out the lists of companies and then it would be for Parliament to decide whether they all should be included. I did not attempt to make the lists, because the authority and the responsibility rest with Parliament.

The reason why entrusting agreements are necessary is that the Canadian Pacific and other companies not owned by the government must be bound in such a way that what is established cannot be broken apart except with the permission of Parliament. The essential feature of my plan is that Parliament is the sole party that can destroy the entrusting agreements.

Hon. Mr. LYNCH-STAUNTON: Mr. Ruel, the intent of that provision, as I see it, is to get the various component companies of the Canadian Pacific under the control of the managing company?

Mr. RUEL: Yes, and of the Canadian National also. You must do it in a legal way, of course. We do not want to bring about the kind of situation we had in connection with the Grand Trunk, the shareholders of which are saying at the present time that the whole thing is wrong. We have to make these companies sign some definite agreement, whereby they assign certain powers to the managing company. As I have said, the managing company would occupy a position like Mr. Pottinger did.

Hon. Mr. CALDER: Who is Mr. Pottinger?

The CHAIRMAN: David Pottinger was the Manager of the I.C.R. for about forty years.

Mr. RUEL: He was the wisest old owl that ever lived in the railway world.

Hon. Mr. CALDER: I have been living in the West since 1882.

Mr. RUEL: I am a Maritimes man.

Paragraph (2) of clause 8 reads:

In like manner the Governor in Council may by Order in Council authorize the Minister of Railways and Canals to execute an entrusting instrument in similar form, with appropriate changes, of the whole or any part of the Canadian Government Railways which it may be deemed expedient to entrust to the Managing Company for management and operation.

In other words, it would bring them all in together without making any difference where the ownership is.

The CHAIRMAN: Suppose you leave the Intercolonial out, what difference would that make?

Mr. RUEL: It would not make any difference. The road would immediately go back to the Department of Railways and Canals, and that is what I think should be done. I would hand the Intercolonial back to the Maritime Provinces and let them run it.

Hon. Mr. STANFIELD: What would you do with those bad roads that you handed over to the Intercolonial?

Mr. RUEL: They are Canadian National roads. We did not hand them over to the Intercolonial; they are still ours, unfortunately.

Hon. Mr. BUREAU: What would you do with the National Transcontinental?

Mr. RUEL: I would give the eastern lines, from Levis east, to the Maritime Provinces.

Hon. Mr. LAIRD: Suppose they would not take them.

Mr. RUEL: It is up to them to refuse; if they refused we would be just as badly off as we are now.

The next section reads:—

In such case a general description of the lines so entrusted shall be sufficient to entrust to the Managing Company all the properties, assets and works of every description, and interests therein, and all franchises, powers, rights or privileges with respect to the Canadian Government Railway lines so entrusted, subject to all statutes, obligations, contracts, agreements or duties (not inconsistent with the provisions of this Act to which such lines were subject at or before the time when such entrusting instrument came into effect.

Then the next clause:—

The expression "the owning companies" as hereinafter used, shall mean all companies (including His Majesty the King in the right of the Dominion of Canada, in respect of the Canadian Government Railways) at any time entrusting any railways, properties or works of any description to the Managing Company by virtue of this section.

I call them owning companies afterwards.

The next clause is a fairly important one:

From time to time the properties and works of other companies not listed in the schedules hereto may in like manner be entrusted to the managing company for management and operation—

That is in case we leave anything out.

Hon. Mr. BUREAU: That would be the Government railways?

Mr. RUEL: Oh, any company could be subsequently brought in. But suppose we happened to buy another company, which I hope we do not do, it could be brought in.

The CHAIRMAN: The C.P.R. might buy a company.

Mr. RUEL: Yes. The provision is elastic so that the managing company can be entrusted with these roads, and Parliament may take out any lines which have been entrusted to it which they think should not be entrusted to it.

The CHAIRMAN: That is the duty of Parliament.

Mr. RUEL: Yes.

The entrusting instruments shall continue in force and effect for the period of years—

The first idea I had was five years. I knew they would not be able to do anything in five years, but I started with that.

—and thereafter until Parliament authorizes their cancellation.

HON. MR. DANDURAND: Would a fair period be ten years or fifteen years?

MR. RUEL: Yes, ten or fifteen years. It probably would take fifteen years. After all, Senator Dandurand, we cannot tie the hands of Parliament, even by a Bill. Parliament could cancel the Bill to-morrow if it saw fit. It is merely a pious wish that this would continue for ten years, if we put it in the Bill; but Parliament can cancel at will.

HON. MR. CALDER: I suggest that one of the senators move up a little bit, so that Mr. Ruel may sit nearer to us at this end. We really cannot hear.

HON. MR. MURDOCK: The record indicates that you spoke of this before the Commission. I wish you would elaborate a little further on what you mean. You were explaining what you meant by five years. Here is a concrete example:—

Five years is a pretty short time, but I put it that way in order not to frighten people, that they might not think we were going into something permanent.

What does that mean?

MR. RUEL: Exactly what I said.

HON. MR. DANDURAND: Now we do not hear you.

HON. MR. MURDOCK: You intended that it should be permanent, but you wanted to convey the impression that that was not the intention.

MR. RUEL: I wanted to convey the impression that it was not permanent. I am opposed to amalgamation or anything of that kind. This is not amalgamation, but joint management. I said we would put it at five years. This is only a pious wish that Parliament should not break the thing apart, at any rate, until it has had a fair chance of showing what can be done. I do not think we can accomplish much in five years, and I do not think that at the end of five years Parliament will break it apart. Furthermore, as I told the Commission, if Parliament said: "We have had enough of this, you fellows break it apart, we are going to pass a Bill cancelling the entrusting agreements"—I do not think they will cancel the entrusting agreements in toto. It will leave the joint telegraph companies and it will do so and so with the express. Parliament has the whole thing in its own hands. It can cancel anything at any time.

HON. MR. CALDER: That would apply to terminals and trackage?

MR. RUEL: Everything.

HON. MR. MURDOCK: You thought they would come back to their separate entities later?

MR. RUEL: Yes.

HON. MR. MURDOCK: Then what did you mean when you said, "I think competition is a curse?"

MR. RUEL: So I did, and still think so.

HON. MR. MURDOCK: Then, in your judgment, they should not go back to separate entities, ever?

MR. RUEL: No, but I am leaving it to Parliament to decide. It is the final judge of all these things, and if it decides that I am wrong and that it wants to get back to competition, I am not going to try to tie its hands. Therefore, naturally, I say five years or such longer time as Parliament wants to carry on. Then out she goes.

HON. MR. DANDURAND: You could perhaps explain why you believe that competition is a curse?

Hon. Mr. LYNCH-STAUNTON: I do not want to trouble you, Mr. Ruel, but I think that you have in your mind a different conception of competition from that of the man on the street. Two men setting up in business means competition. That is not competition in your mind.

Mr. RUEL: No. Competition as I have seen it in the railways is destructive to the efficiency of both companies.

Hon. Mr. MURDOCK: Is a monopoly a good thing?

Mr. RUEL: No. There would be no such things as a monopoly.

Hon. Mr. LYNCH-STAUNTON: Now we cannot hear, Mr. Ruel, and you are worth hearing.

Some Hon. SENATORS: Go up by the chairman.

The CHAIRMAN: Mr. Ruel does not believe in competition of voices either.

Mr. RUEL: Competition as I have seen it in the two railways simply means that the two railways suffer. You might say it is just like the case of two departmental stores. A man wants something particularly, and he first goes to one of those stores and finds out the price, and then he goes to the other store and sees how much he can beat it down. There are various expenses connected with the railways that are very costly because of competition. I cannot see any advantage in competition. At the present time we have competition in transportation with motor trucks. It is becoming quite a serious proposition, and our people do not seem to realize how dangerous it is. I have been trying to pound it into them for the last ten years. We have competition in waterways. Competition in airways is coming. Consequently I say we have enough competition now. For heaven's sake let us try a period of non-competition, and let us see if we cannot bring these railways back to the condition where we would all like to see them. It seems to me that is a commonsense view.

Hon. Mr. CALDER: Is this true, Mr. Ruel, if you eliminate competition in so far as services to the public are concerned, has the Board of Railway Commissioners sufficient power to enforce such elimination?

Mr. RUEL: Unquestionably we have regulated competition at the present time. If we went into this scheme of mine we might be called a monopoly, but we are a regulated monopoly in any event, and I do not see that a regulated monopoly is such a dreadful thing. We have a regulated monopoly of water service, and other regulated monopolies throughout the country. I have no doubt it will occur to the Committee that regulated monopolies actually do exist already. I suppose the Montreal Light, Heat and Power Company is a regulated monopoly on the Island of Montreal.

Hon. Mr. LYNCH-STAUNTON: The Consumers' Gas Company of Toronto.

Hon. Mr. MURDOCK: If monopolies succeed at all they usually succeed under public ownership?

Mr. RUEL: I am not a friend of public ownership.

Right Hon. Mr. MEIGHEN: You realize, Mr. Ruel, that if Parliament passed this bill Parliament could not enforce it.

Mr. RUEL: Any man can lead a horse to water, but no man can make it drink.

Right Hon. Mr. MEIGHEN: But constitutionally Parliament is unable to compel the C.P.R. to sign the entrusting agreements. Therefore it would be just a mere nullity so far as the legislation goes.

Mr. RUEL: Hold on! Having once signed the agreements, then they are bound. It is very similar, Mr. Meighen, to what we did years ago with respect to the negotiations for the Grand Trunk arbitration.

Right Hon. Mr. MEIGHEN: Yes.

Mr. RUEL: The Grand Trunk people said, "We cannot put this thing through." "All right," we said, "Go into bankruptcy." That was the answer. Now, with regard to the two railways, both the C.P.R. and ourselves, the position is desperate—desperate; do not forget that. People do not realize how desperate it is. Unless we get relief at once, or within a reasonable time, from this present depression the situation is going to get worse instead of better. Consequently I do not think that any sensible organization will refuse to go into this scheme if they see thereby a chance of saving the situation for themselves and for the country at large. Both organizations have got to be saved. Not necessarily the Canadian National Railway alone—I am not interested in that organization now—but the C.P.R. also must be saved, and you can only save them by economy, and sane economy at that.

Hon. Mr. CALDER: What do you say to this, Mr. Ruel. It has been expressed before this Committee that if joint management, such as you suggest, takes place there would develop a situation with regard to both systems of such a character that if extended over a period of years will make it practically impossible to unscramble the two systems.

Mr. RUEL: No such thing. The answer is very simple. The principle of entrusting agreements is already in force in regard to the Intercolonial Railway. As I told you, if it were thought wise to have the Intercolonial railway run by the Department of Railways, that could be done to-morrow by an Order in Council cancelling the entrusting agreements, and the management could take hold at Moncton the next day. This proposition of not being able to unscramble things, as I told Sir Henry Thornton in Chicago when he suggested it, is pure piffle.

Hon. Mr. CALDER: For example, to-day we have dual express and telegraph offices and hundreds of miles of duplicating tracks. Suppose one set of offices and various lines of duplicating tracks were abandoned, and later you decide to unscramble two systems, will it mean another duplication of those things?

Mr. RUEL: In the last clause of this Bill of mine—I have not reached it yet—there is a provision to cover that situation. Each year, instead of dividing the whole of your savings, you set aside a rehabilitation fund—an actual fund in cash—and you, that is Parliament, says: "Now, you fellows just break apart. We divide that fund, I suppose under the direction of the Board of Railway Commissioners. The Railway Board will say just how much shall go to each company. But my idea is that a sum of \$1,000,000 at least should be set aside every year for a rehabilitation fund, to restore the two companies to their proper status as they are now at whatever time Parliament decides they have had enough of this.

Hon. Mr. CASGRAIN: Mr. Chairman, I think we should allow Mr. Ruel to get to his bill before we put any further questions to him. There may be clauses in his bill that we are anticipating.

The CHAIRMAN: What is your pleasure, gentlemen?

Some Hon. MEMBERS: Go ahead, Mr. Ruel.

Mr. RUEL: I have told you that there were provisions in my bill making the thing elastic, that other companies could be added and could be taken away at the discretion of Parliament or the Governor in Council.

Then there is this clause that is quite an important one:

10. The Managing Company is expected and directed to conduct the management and operation of the various undertakings and works entrusted to it hereunder as one undertaking or combined enterprise, in order that duplication of services may be avoided consistent with the reasonable requirements of traffic, and that all unnecessary extravagance

and unreasonable expenditure be curtailed. It shall have power to curtail, alter or discontinue any services or facilities, whether unprofitable or producing insufficient profit, and whether on unprofitable or profitable lines of railway or other works, and with the consent of the Owning Company—

We do not affect the title of the Owning Company. It still has absolute ownership of its property.

—affected may close, dismantle or abandon any works or facilities. The Board of Railway Commissioners for Canada, in so far as they may have jurisdiction shall co-operate with the Managing Company in the reasonable furtherance of this purpose.

That is, I am asking everybody to co-operate.

Right Hon. Mr. MEIGHEN: I did not quite get your interjection a minute ago. Can this management organization not abandon anything of the Canadian Pacific?

Mr. RUEL: Yes, but they cannot dismantle it. All we are entrusting to this company is what we are entrusting to the Canadian National Railways at the present time with regard to the operation of the Intercolonial railway. The Canadian National railways as manager for the Intercolonial cannot sell a foot of land belonging to the Intercolonial except with the approval of the Governor in Council under the statutes relating to the sale of public lands. As a matter of fact we do lease for five years, but we limit it to that, because we do not want to tie the hands of the Intercolonial, or the Government, in respect of their own property. We desire to pass the property back to them in exactly the same position as we got it whenever it is decided that the entrusting agreement should be cancelled. The only authority that can impair any part of the Intercolonial railway is the Government, acting through the Governor in Council. The same idea underlies this entrusting agreement. We cannot destroy the property of any company. We manage the property; the owning company itself has to consent before any property can be destroyed. That, I think, is the reasonable feature of any managing agreement. After all, when you get down to the question, all we are doing here is appointing a managing company, and that managing company is practically the manager. You can treat it as an individual if you please and see the picture better. It so happens it is an individual company consisting of component parts.

Hon. Mr. BALLANTYNE: This is the weakness that I see. Five men are selected to represent the C.P.R. and five to represent the Canadian National Railways. The apple of the eye of each one of these different groups is to preserve his own system in so far as it is humanly possible, always bearing in mind that the roads may be unscrambled. Suppose the C.P.R. said: "That terminal and that line ought to be abandoned." How are you going to get harmony with ten men sitting there, five representing one railway and five representing the other, and each set as keen as mustard to preserve their own properties, unless you have a tribunal of some kind to step in if they cannot agree? Have you got that?

Mr. RUEL: No, you have simply the Board of Railway Commissioners.

Hon. Mr. BALLANTYNE: Then I do not see much good in the scheme.

Mr. RUEL: The objection raised by Senator Ballantyne is more particularly applicable to the case of compulsory co-operation than to a case of this kind, because under this arrangement that I have made here the benefits are joint,

and the parties must get together for the purpose of carrying on. You see, we give them a statutory direction here:—

10. The Managing Company is expected and directed to conduct the management and operation of the various undertakings and works entrusted to it hereunder as one undertaking or combined enterprise.

Now, if anyone can set up another scheme better than this, that would meet the objection raised by Senator Ballantyne, I would be glad to hear of it.

Hon. Mr. BALLANTYNE: The two sets of representatives would fight like blazes.

Mr. RUEL: No, I do not think they would. They would be working in the interests of ordinary economy, with a view to saving their own companies. The powerful impulse behind this whole thing is economy which will ultimately produce dividends for both the Canadian Pacific and the Government owned line.

Hon. Mr. MURDOCK: Is that the bill you proposed before the Royal Commission ?

Mr. RUEL: I did not bring the whole bill with me but only a synopsis. It is the same idea.

Hon. Mr. MURDOCK: Is that the Act to which you referred before the Royal Commission, when you said "I call mine the slaughter Act"?

Mr. RUEL: Yes, this is the Act which is the slaughter Act. You are quite right. But you can slaughter different things, Senator Murdock. You can slaughter inefficiency, extravagance, and so forth. This does not necessarily mean the slaughtering of human beings. You can do just as much slaughtering under a compulsory co-operation Act as you can do under this scheme, but in this case you are supposed to have ten sane men who will practise economy in a sane way. That is what I am hoping for, at any rate. It is very important that the personnel of this organization, whatever it may be, should be selected with the greatest care. The success or failure of any industry, whether concerned with the operation of railways, steamships, or anything else, depends on the executive head and staff. After you have passed the Act the greatest care should be exercised in making appointments.

The CHAIRMAN: I think we are unanimous on that, Mr. Ruel.

Mr. RUEL: Well, that is common sense. And after all, that is the answer to Senator Murdock's question, that we are going to try to get the best men we can.

Hon. Mr. MURDOCK: You make it necessary that I ask you another question. Sir Joseph Flavelle asked you, when you were before the Royal Commission, if your scheme was a merger, and your answer was yes. Is that what you mean?

Mr. RUEL: Yes, a temporary merger.

Hon. Mr. MURDOCK: You did not qualify it.

Mr. RUEL: I am qualifying it now. It is quite open to Parliament to amend its acts, and I suppose it is open to me to amend my statement. The scheme is a temporary one, not in any sense intended to be an amalgamation. The manager could be discharged at any time.

Hon. Mr. MURDOCK: But your earnest hope is that the scheme will be continued? Is that fair?

Mr. RUEL: No. Why should I hope that Parliament should do some particular thing?

Hon. Mr. CALDER: You hope your scheme would prove successful?

Mr. RUEL: Yes. I hope that in ten years not only the Canadian Pacific but the lines owned by the Government will be paying dividends. They can do that if sane economies are put into effect.

Hon. Mr. MURDOCK: You proposed to guarantee priority to the Canadian Pacific for the payment of all its fixed charges, and the insuring of a dividend of 4 or 5 per cent, or perhaps larger? Is that right?

Hon. Mr. LYNCH-STAUTON: Mr. Ruel has not come to that yet. Let him finish with his bill first.

The CHAIRMAN: The committee decided a little while ago that Mr. Ruel should be allowed to finish his references to his bill. I think he should go on with it now.

Mr. RUEL: I had got as far as clause 10. The next clause merely fixes the powers of the managing company. I have made those powers quite broad, in order that the managing company may not be restricted in giving effect to any economy that it may deem necessary. Paragraph (2) of this clause reads:—

All such matters and things may be performed by the Managing Company in its own name or in the name of any of the Owing Companies affected, at discretion, but nothing so done or performed shall make the Managing Company directly liable for any obligations of the Owing Companies unless expressly assumed by the Managing Company in writing, nor shall be taken to give to any third persons any cause of action, right, privilege or remedy against the Managing Company which they would not otherwise have.

And paragraph (3):—

All officers and employees engaged in the operation and management of the undertakings and works so entrusted shall continue to be officers and employees of the respective Owing Companies, even though paid by the Managing Company from the moneys controlled by it. The Managing Company shall be treated merely as an agent or manager of the Owing Companies.

And paragraph (4):—

The Managing Company may during the continuance of the entrusting instruments exercise any of the powers, rights, privileges and franchises entrusted to it (except those of the Crown) for the benefit of all or any of the Owing Companies or their respective undertakings and works so entrusted.

That is, any remedy could be made general, to apply to all the companies. The next clause, No. 12, deals with the keeping of accounts, and this has a bearing on Senator Murdock's question. It reads:—

In addition to the keeping of such accounts as shall be necessary in the interests of the respective Owing Companies, the Managing Company shall keep consolidated accounts showing the income and expenses incidental to the operation and management of all the undertakings and works entrusted to it under this Act. After payment of all working expenses and making provision for working capital, the Managing Company shall divide the net operating income among the Owing Companies in the manner following:—

There would be inserted such scheme of division as may be arranged. I said to the Royal Commission that it was for them to decide what division should be made, but they said, "You have some ideas on the subject. What are your ideas?" Well, this is the way I look upon the matter. The Canadian Pacific

has always paid interest on its fixed charges and it is reasonable that it should continue to do so. There was a similar situation in connection with the Grand Trunk. When we were talking of an arbitration agreement, Grand Trunk officials said, "You are going to take over these lines of ours and co-ordinate them with the Canadian Northern and other roads, and our lines will not be able to pay interest on fixed charges." So the Government replied, "We will guarantee the interest on your fixed charges." And that is what was done.

Since the Canadian Pacific has always paid interest on its fixed charges, it is only reasonable that from the earnings resulting from these economies the first bite should be used for payment of those fixed charges. We cannot allow the Canadian Pacific to go into default, if it is possible to prevent it.

The Royal Commission asked about the Canadian National, and I pointed out that that road had never paid interest on its fixed charges, although there was one time, in 1929, when we actually earned enough to pay all our working expenses and fixed charges.

The CHAIRMAN: That is, to the public?

Mr. RUEL: Yes, to the public, not to the Crown. Consequently I argued before the Commission that it would not be fair to give as much money to the Canadian National as to the Canadian Pacific. My suggestion was that something like 80 per cent of the amount allowed to the Canadian Pacific for payment of fixed charges should be allowed to the Canadian National. I do not know what amount is required to meet those charges, but suppose it is \$5,000,000 for the Canadian Pacific in one quarter. Well, I would give a sum equal to 80 per cent of that amount to the Canadian National. I said to the Commission, "You have the necessary organization for looking into the accounts and finding out what the actual percentages should be." I am not competent to set up the percentages in which these amounts should be divided, any more than Senator Graham is, and I do not think he would accept the job.

The CHAIRMAN: I would not like to.

Mr. RUEL: It is a work for competent accountants to say what is a fair division. My own idea is, although I did not express it to the Royal Commission, that possibly the question of distribution from time to time should be regulated by the Board of Railway Commissioners, or some authority like that having power to go into the earnings of the two companies and distribute them equitably. After all, it is equitable distribution that we are after. We want to be equitable and fair. There is where the crux of this situation comes—What is going to be the division?

Hon. Mr. LAIRD: Would your scheme involve writing down the capital structure?

Mr. RUEL: No. I do not see that there is any sense in that; it does not affect us in the slightest degree. The organization looks at it in this way: Did we earn as much this week as we did the same week last year, or the year before, or the year before that? Whether the capital structure is seventeen billion or seventeen trillion does not mean anything to the ordinary man. Consequently, what the structure is is of no importance at the present time.

Right Hon. Mr. MEIGHEN: If you have arranged for a distribution of earnings equitably among the securities of the two companies, and there are five classes, then what is the value of having a new board to manage it? Why not let the C.P.R. manage it? Every day they work for themselves they would be working for others.

Mr. RUEL: Exactly, but you do not get your savings unless you get economies by joint operation.

Right Hon. Mr. MEIGHEN: They will produce economies when they share in the benefits.

Mr. RUEL: Oh, yes.

Right Hon. Mr. MEIGHEN: What I am not clear on is this. If you are distributing the earnings in an equitable way—say, first, the earnings on the C.P.R. bonds, and subsequently a percentage on C.P.R. stock and a percentage on Government bonds, and after that another interest payment to the C.P.R. and another payment to the Crown—you have in that system of distributing the earnings every incentive on the part of the C.P.R. to effect economies, and you have the Board of Railway Commissioners to maintain the service. Why inject someone else into the whole enterprise?

Hon. Mr. DANDURAND: What about the Canadian National?

Right Hon. Mr. MEIGHEN: They are getting the benefit of any economies effected.

Hon. Mr. LYNCH-STANTON: Are you suggesting that the C.P.R. should govern both roads?

Right Hon. Mr. MEIGHEN: If you are providing for the distribution of the earnings, so that all economies effected will go to the benefit of both the Crown and the C.P.R. bondholder, you have every incentive to economy, so why try to help them manage the road?

Hon. Mr. DANDURAND: But these economies must be imposed on the two lines.

Right Hon. Mr. MEIGHEN: If I am running a business for my own benefit I will effect economies if I can. The C.P.R. will do the same thing.

Hon. Mr. DANDURAND: You are proceeding on the assumption of separate administration?

Right Hon. Mr. MEIGHEN: If you have provided an equitable distribution of earnings under the plan that is indicated by Mr. Ruel, and which I follow quite clearly because I have sometimes thought of it myself, I cannot see what you would gain by taking any responsibility in the management. You can rely on the C.P.R. to effect the greatest economy possible, because the greater the economy effected the more they gain themselves.

Hon. Mr. LYNCH-STANTON: I cannot follow you at all.

Hon. Mr. DANDURAND: These economies can only be effected if there is joint management and joint control.

Right Hon. Mr. MEIGHEN: If the C.P.R. is entrusted with the management of the Canadian National, that is joint management, isn't it?

Hon. Mr. DANDURAND: Oh!

Right Hon. Mr. MEIGHEN: Then if you provide for distribution of earnings so that we will get an equitable benefit with them, every incentive to make the economies will exist.

Hon. Mr. DANDURAND: But you pass the management of the Canadian National to the C.P.R.?

Right Hon. Mr. MEIGHEN: Certainly. That is passing it to a joint board.

Hon. Mr. MURDOCK: Will you not permit us to put a sugar coating on the Bill?

Right Hon. Mr. MEIGHEN: That is all it is, as far as I can see.

Hon. Mr. MURDOCK: That is all it is.

The CHAIRMAN: Now, gentlemen, we will revert again.

Mr. RUEL: I was on the question of the division of the earnings. From my point of view the managing company at the end of a given period, say for instance, a quarter—any quarter in any particular year—has, by reason of its economies, cash in hand to a certain amount; and the question is how you are going to divide that. You can divide it 50-50, if you like—that is the easiest way—or 60-40, or in any other way that you choose. But my idea is that the economies resulting from this joint management will be such that there will be

large amounts of money coming in to the joint organizations that otherwise would not come in, because you will be effecting economies that cannot be effected in any other way. Whether you divide the amount 50-50, or otherwise, is not a matter for me to decide, but for accountants and people who know the proper distribution. That is what I pointed out to the Royal Commission. I said, you have your staff and can determine better than I can; but the operation in that way does accomplish certain things. You get moneys in hand by reason of your organization that you would not get in any other way, and that amount of money is to be divided. Someone, other than myself, will tell you how properly to divide that. Fifty-fifty would be the obvious way.

Hon. Mr. LAIRD: Would not the C.P.R. have an important voice in that matter?

Mr. RUEL: They would, undoubtedly, Senator. That is why I did not want to lay down any hard and fast rules.

Hon. Mr. LAIRD: You say it is for Parliament to decide. I would imagine the C.P.R. would have a very important say in the matter.

Mr. RUEL: That is why I say this Royal Commission would come in with some suggestion as to what they would consider an equitable division of the joint earnings. I did not attempt to say what the division should be. Obviously, as I said before, fifty-fifty is a reasonable proposition, but I did not want to be unfair to the C.P.R., because naturally my sympathies all run in favour of the Canadian National, and I would try to preserve it in the first place. So I felt I was not a competent judge to say how the joint earnings should be divided, and I left it open for somebody else to tell them. It must be borne in mind that the Canadian National System has a larger mileage, and possibly at some time in the near future the division would not be fifty-fifty; it would be sixty-forty, and the sixty would be in favour of the Crown. There is no reason why that should not be. But I would not attempt to settle that myself, I would leave that to the Board of Railway Commissioners to deal with from time to time as either party appealed to them in the event of a dispute as to the proper division. The Railway Commission should then go into the accounts and say what was a fair and equitable division over another period, three or four years. That is all I have to say on the division.

Now we get down to a rather important question:—

13. The Managing Company may not sell or dispose of any lands or interests in lands forming part of the undertakings and works so entrusted to it, nor execute leases or licences in excess of a five year term without the consent of the Board of Directors of the Owning Company affected.

That is perfectly obvious. It is the carrying out of the scheme, and they cannot destroy the owning company's property. It is just joint management during the continuance of the entrusting agreement.

Then the next section:—

14. During the continuance of the entrusting instruments the Boards of Directors of the respective Owning Companies shall be reduced to three members.

For the simple reason that they have nothing to do, except to arrange for leases, licences, and sales, where sales are necessary.

The next clause is rather amusing than otherwise, because it covered Sir Henry Thornton and President Beatty. I need not say that they did not think very highly of each other, so I had to try and arrange to bring the two together:

15. The offices of the President and the Chairman of the Managing Company shall be separate offices. The Directors of the Managing

Company shall in the first year agree among themselves which group of such Directors, namely, those nominated by the Governor in Council or those nominated by the Canadian Pacific Railway Company shall appoint the President. The other group shall appoint the Chairman. In the following year the group which appointed the President in the previous year shall appoint the Chairman for such following year, and the other group the President, and so on until the entrusting instruments are cancelled.

That may seem to some extent humorous, but there is a solid foundation for it: The president and the chairman of any organization should never be the same. That is my experience. The president in his capacity as president can refuse to bring before the Board of Directors things which he, as president, does not want considered by the Board and possibly revoked. Therefore those two officers should never be filled by the same man; it does not work.

Then at section 16 I have this note:—

Add section respecting capital expenditures.

Of course, you know, capital expenditures are made every year, and usually one per cent of the amount of the property accounts has to be spent annually for maintenance, betterments and so on. My idea with regard to that was that the Managing company should issue its own notes, these being guaranteed by the two companies or by the C.P.R. and the Crown. Then following another act of the Canadian National of 1914, the subsidiary company which received the benefits arising from that issue of securities should put up its own securities with the managing company, these maturing at the same time and bearing the same rate of interest. It would be the duty of the managing company to collect that interest and apply it on its own indebtedness on the notes. I think that would work quite fairly.

Against what would be section 17 I have this note:—

Add section respecting issue and guarantee of securities for capital expenditure.

That, of course, would be a necessary corollary of what I have just said.

Against number 18 I have this note: Add section respecting deposit of securities of owning companies for their allocated proportion of capital expenditure made upon their respective undertakings.

That is what I have just been telling you. If capital expenditures are made for the Canadian Northern Ontario, the Canadian Northern Ontario should put up with the managing company its own securities, maturing at the same time and bearing the same rate of interest, to retire the bonds of the managing company when they fall due.

My next note is:—

19. Add section respecting winding up upon cancellation of the entrusting instruments.

That is, assuming Parliament cancels the entrusting agreements we put in a division for what happens at that time.

20. Add section providing a formula for compensation to any owning company for deferred maintenance to which such company may be entitled on cancellation of the entrusting instruments.

That is what I call the rehabilitation account, for when the entrusting agreements are cancelled the fund set up each year and growing each year will be divided equitably, preferably by the Board of Railway Commissioners for Canada.

21. Add section respecting suspension of joint ownership and joint operation agreements between the owning companies during continuance of the entrusting instruments.

It is obvious that that has to be done. There is no difficulty about that.

That is the Bill.

The CHAIRMAN: Now, gentlemen, any questions?

Hon. Mr. BUREAU: Mr. Chairman, Mr. Ruel has given us some explanations about the bill. Some of the sections he has read, some he has not. Will his draft bill be included in the minutes?

Some Hon. MEMBERS: Hear, hear.

Hon. Mr. BUREAU: Then we shall have a chance to look at it.

Hon. Mr. BALLANTYNE: Don't you think, Mr. Ruel, that single management would be preferable to joint management inasmuch as the earnings are to be pooled? Then why not turn it over to the C.P.R., as Mr. Meighen says.

Hon. Mr. LYNCH-STAUNTON: We won't do it.

Hon. Mr. BALLANTYNE: Joint management by five men to my mind is futile.

The CHAIRMAN: What is your answer, Mr. Ruel?

Mr. RUEL: The five men must agree because the eyes of the nation are on them, and I am hoping you will appoint five good men who will realize that the eyes of the nation are on them. I cannot see any advantage in single management. If the C.P.R. were entrusted with our organization, no matter how many good men you have on the C.P.R., I am afraid they would destroy the National railway. Similarly, if you entrusted me with the operation of the C.P.R. I am afraid my tendency would be to destroy the C.P.R. I know that much about myself. I am more loyal to the Canadian National Railways than to myself—at least I have been.

Hon. Mr. BUCHANAN: You said that under the system you propose both railways would be earning profits in ten years?

Mr. RUEL: I think so.

Hon. Mr. BUCHANAN: Have you in mind writing down the capitalization of the Canadian National Railways?

Mr. RUEL: It does not make any difference, Senator Buchanan. The point is this, that in ten years I hope we can say that Canadian National expenses will be below earnings, and that the favourable margin will be large enough to cover interest on fixed charges and all the other charges. I am hoping for that.

Hon. Mr. LAIRD: In your financial set-up Mr. Ruel, how could this managing committee issue securities when they have no assets?

Mr. RUEL: Because they would be guaranteed in the one case by the Crown and in the other case by the C.P.R. Any Canadian would buy those securities.

Hon. Mr. LYNCH-STAUNTON: Just as now.

Mr. RUEL: Only better, because they would have the added security of the C.P.R. I might say my first suggestion to the Royal Commission was it should be guaranteed by the Canadian Pacific and the Canadian National Railways, but I pointed out that the Canadian National guarantee was no good.

Hon. Mr. MURDOCK: Mr. Ruel, you spoke of dividing up the earnings of the consolidated company. At page 2257 of the record of the Royal Commission you suggested that the C.P.R. should be guaranteed priority payment of all its fixed charges and an assured dividend of 4 or 5 per cent, with a chance of a greater percentage. Why the change of attitude?

Mr. RUEL: No, that is right. You see, we were having a rough and tumble discussion at that time around the room, and I said I hoped that would be the result of the scheme. The stenographers are good enough to tell me that I always talk too fast and they do not always get down what I actually say. I hoped that in time the Canadian Pacific, under this joint management, would not only get the whole of these fixed charges—which would be practically guaranteed, because the company would be allotted the first bite upon the earnings—but that before long it would be earning a good proportion of its dividends upon the capital stock, at the rate of one, two, three, four or five per cent, or possibly more, but never of course more than ten per cent. That is a hope, a pious wish, to use Senator Meighen's term.

Hon. Mr. CALDER: Assuming that joint management were put into operation, how will you take care of new capital expenditures that were necessary?

Mr. RUEL: I tried to explain that a few minutes ago. The managing company would issue its own notes for capital expenditures. Those notes would be guaranteed by the Crown, on the one hand, and by the Canadian Pacific on the other, and would be saleable anywhere because of those two guarantees.

Hon. Mr. CALDER: Suppose it was necessary to undertake a new work, that would be used by both companies, I presume the capital expenditure would be divided in some proportion between both companies.

Mr. RUEL: The managing company would have no authority to make new works; they would have to be authorized by the owning companies.

Hon. Mr. CALDER: I can conceive of a situation under joint management where some new work would be required for the use of both companies, which work when completed would not belong to either company.

Mr. RUEL: There is no provision for such a thing in the scheme.

Hon. Mr. CALDER: Well, should there be?

Mr. RUEL: No, because if that were done you could never make a separation; you would find that the managing company had something that could not be divided.

Hon. Mr. CALDER: That is what I had in mind when I raised the question about unscrambling. Is it not possible that when the time for unscrambling arrived there would be certain things that could not be unscrambled?

Mr. RUEL: No. The running rights agreements, of course, would stand, but they are between the original companies.

Hon. Mr. CALDER: There is one other matter I wish to question Mr. Ruel about, because of his long experience with the Canadian National and his knowledge of what has taken place in the way of voluntary co-operation with the Canadian Pacific during the past few years. As I see it, there is no possibility of this Bill being passed through Parliament before, say, five months from now. In the meantime, Canadian National deficits are being piled up at the rate of at least of \$5,000,000 a month?

Mr. RUEL: \$150,000 a day, a million dollars a week.

Hon. Mr. CALDER: I had the figures yesterday. For the third week of November this year the Canadian Pacific fell behind to the extent of more than \$600,000 over the figure for the same week last year. I do not know what the position was for that week last year. And during the third week of November this year the Canadian National deficit, over that for the same week last year, was \$1,200,000.

Mr. RUEL: Last year was a bad one, anyway.

Hon. Mr. CALDER: Now, the question I wish to ask is this: In your opinion, is it not possible, before Parliament adjourns, to arrange for voluntary co-operation between the railway organizations, as they now exist, so that at least some economies can be effected in the interim before the Railway Bill becomes law?

Mr. RUEL: Certainly it is. It is only a question of reasonable management on the part of those in charge of the two organizations. There is no reason why economies could not be made. As a matter of fact, large economies are being made every day, because the parties in charge of the roads are doing their best to that end. But the trouble is that each road keeps the benefit of its own economies, that the benefit does not accrue to the common good, whereas under my scheme the economies would benefit both roads.

Hon. Mr. CALDER: We all understand the position Mr. Hungerford is in. He is a very able man, but at present he must be in fear and trembling with respect to everything he does. He has a Board of Directors who know that they are not likely to be there much longer. Now, can voluntary co-operation proceed in the way that it should, so long as Mr. Hungerford is practically alone on the job?

Mr. RUEL: A very great deal can be done. Mr. Hungerford is a capable, conscientious man, one of the best operating men I know of in Canada. I do not think you can improve the present situation until you pass a bill of the kind I suggest. In the meantime I am quite sure that every economy that can be effected will be effected by co-ordination of the two companies.

Hon. Mr. CALDER: Do you think he has the necessary assistance?

Mr. RUEL: I am sure he has.

Hon. Mr. McLENNAN: Mr. Ruel, do you propose that all the undertakings of the two railroad companies should come under your scheme?

Mr. RUEL: No, only those that would be enumerated in a list.

Hon. Mr. McLENNAN: You would not include mines, hotels, and so on?

Mr. RUEL: Only transportation companies. Parliament would determine what undertakings would be included in the list.

Hon. Mr. ROBINSON: Speaking about economies, I understand that there have been very effectual economies made already?

Mr. RUEL: Quite right.

Hon. Mr. ROBINSON: And more and more are being made every day?

Mr. RUEL: Quite right.

Hon. Mr. ROBINSON: But do you think that under some such scheme of joint management there can be any very great economies made that are not being made at the present time?

Mr. RUEL: Very decidedly so, and for this reason. At present each company keeps its own savings which result from the economy, and there is mutual distrust—that is natural; you can understand that—and they are dealing at arm's length.

Hon. Mr. ROBINSON: There can be very decided economies?

Mr. RUEL: Quite.

Hon. Mr. ROBINSON: We all know that already they have made very large economies.

Mr. RUEL: Quite so.

Hon. Mr. ROBINSON: Do you think the economies will be sufficient to restore the earning power of these roads, if the depression continues?

Mr. RUEL: I am hoping.

Hon. Mr. ROBINSON: After all, perhaps these roads have not made a failure any greater than that of the other great industries of this country.

Mr. RUEL: I am hoping. That is all we can do. But it is not sufficient merely to hope; we must keep our powder dry.

Hon. Mr. CALDER: When Mr. Beatty was here he said he had a long list of things to be submitted to this co-operative body if this Bill were brought into existence. Why has he not been busy on that long list? I presume the C.N.R. must have a long list as well.

Mr. RUEL: They have, but it will have to be very carefully scanned by the people who are going to handle it in the ensuing years. On that long list there is one line that I noticed, from Ottawa to Nakina—

Hon. Mr. CALDER: I think we all accept what you are going to say. In your opinion is there anything further that should or can be done at the present time in order to bring about what is required?

Mr. RUEL: No. I would let the parties deal as they are dealing now. They are doing their best. But, as I said to the Commission, we must act quickly.

Hon. Mr. LYNCH-STAUTON: Mr. Ruel, I deduce from your remarks that you really give this Bill your blessing, except for one feature?

Mr. RUEL: Quite right.

Hon. Mr. LYNCH-STAUTON: The Bill appears to me to provide for joint management.

Mr. RUEL: It does.

Hon. Mr. LYNCH-STAUTON: This Bill, not your Bill.

Mr. RUEL: Oh, I see.

Hon. Mr. LYNCH-STAUTON: This Bill has as its object joint management.

Mr. RUEL: Yes.

Hon. Mr. LYNCH-STAUTON: But where there is joint management it is natural to anticipate disputes between the joint managers.

Mr. RUEL: You have put your finger right on it.

Hon. Mr. LYNCH-STAUTON: This Bill recognizes that in the interests of the two companies those should be settled.

Mr. RUEL: No, eliminated.

Hon. Mr. LYNCH-STAUTON: I say settled.

Mr. RUEL: I say eliminated.

Hon. Mr. LYNCH-STAUTON: I am not of that view. In the first place, it seems to me that the Bill we are now considering is an effort to bring about joint management.

Mr. RUEL: Quite right.

Hon. Mr. LYNCH-STAUTON: Because we appoint a board of trustees, and the C.P.R. appoints a board of directors, who are directed to operate the two roads together.

Hon. Mr. DANDURAND: No.

Hon. Mr. LYNCH-STAUTON: Yes, together.

Some Hon. SENATORS: No, no.

Hon. Mr. LYNCH-STAUTON: Pardon me. I have the floor just now. Joint management may not be joint management in the legal sense, but from the business point of view. We are to agree together how we are going to operate the two roads with the object of common benefit.

Mr. RUEL: Are we?

Hon. Mr. LYNCH-STAUTON: I may not be within the legal meaning of it, but in the practical meaning it is joint management. You are looking at it as a lawyer.

Mr. RUEL: So are you, senator.

Hon. Mr. LYNCH-STAUTON: No, I am not.

Mr. RUEL: I thought you were.

Hon. Mr. LYNCH-STAUTON: You form a board and they form a board, and they are told they must agree together as to how they are going to carry on the operations of those two railways. Whether that is joint management or not, that is what is said.

Mr. RUEL: Yes.

Hon. Mr. LYNCH-STAUTON: Then the Bill goes further and says that if they cannot agree, if both cannot endorse the operation of the two roads, someone else is going to decide the disputes between them.

Mr. RUEL: Yes, bang their heads together.

Hon. Mr. LYNCH-STAUTON: I cannot see for the life of me where your Bill differs from this, except as to the compulsory arbitration. I may be dense, but I want to see where the distinction is.

Mr. RUEL: I will give you a nice little statement. The compulsory arbitration scheme is defective in this way. Suppose the Imperial Parliament were to say to President de Valera and Mr. Cosgrave, now, you two get together; if you do not we will appoint Mussolini as an arbitrator, how much good would it do?

Hon. Mr. LYNCH-STAUTON: But Mussolini would be the boss.

Mr. RUEL: But he would accomplish nothing.

Hon. Mr. LYNCH-STAUTON: This arbitrator has power to enforce his settlement of the dispute?

Mr. RUEL: Sure.

Hon. Mr. LYNCH-STAUTON: It is not as though you were allowing him to decide it and not giving him power to enforce it. This Bill carefully provides that if they do not agree—

Mr. RUEL: All right, we will take another case.

Hon. Mr. LYNCH-STAUTON: Wait a moment. If they do not agree they will be ordered to carry out a compromise.

Mr. RUEL: Sure.

Hon. Mr. LYNCH-STAUTON: I am entirely in favour of your ideas—

Mr. RUEL: Thank you.

Hon. Mr. LYNCH-STAUTON: —but I cannot see that they differ from this except on the one point.

Mr. RUEL: Take another case. You have China and Japan quarreling over Manchuria, and the League of Nations—

Hon. Mr. LYNCH-STAUTON: I do not know much about Manchuria. Keep to Hamilton.

Mr. RUEL: The League of Nations is not given power.

Hon. Mr. GILLIS: Should this joint board require additional capital, will the bonds be jointly signed by the Crown and the C.P.R.?

Mr. RUEL: They will be guaranteed.

Hon. Mr. GILLIS: I imagine the C.P.R. would agree to that.

Mr. RUEL: They would be nice saleable bonds, and if you bought any, senator, you would be quite safe.

The answer to Senator Lynch-Staunton is that it comes back to what I told you in the first place. In my scheme the parties are working together for the common good, and the benefits of every economy are divided on an equitable basis. Under the other scheme each party keeps all the benefits arising from his own economies, and will try to put the economies on the other man.

Hon. Mr. LYNCH-STAUTON: I see your point.

Hon. Mr. GORDON: Mr. Ruel, I am in sympathy with you when you are looking towards economy, but you stressed competition. If you meant competition in extravagant expenditures I go with you again, but when it comes down to competition in taking care of the public, I am not with you. Take the case of furnishing cars for an industrial institution. When times are better than they are now it is often difficult to obtain cars promptly. If you have two companies, each of which is looking for business, there is an incentive for the proper kind of competition, and you get service more readily from two companies than you would from one.

Mr. RUEL: Quite right, senator.

Hon. Mr. GORDON: You are looking at the matter entirely from the standpoint of the railroads, and not from the standpoint of the people who are to be served.

Mr. RUEL: Quite so. The extravagance that we have seen resulting from competition is wasteful. That is the trouble. If you had sane extravagance, if there is such a thing, it would be all right; but with the two railways competing sharply with each other, each is driven into extravagances that they otherwise would not adopt. In other words, each railway is trying to keep up with the Joneses, and nobody is quite sure which are the Joneses.

Hon. Mr. GORDON: As a business man I am sure that you will agree with me that there is nothing healthier than competition.

Mr. RUEL: Quite right.

Hon. Mr. DANDURAND: But it is costly.

Mr. RUEL: It is costly.

Hon. Mr. GORDON: If we had only one management in Canada we would have a monopoly.

Mr. RUEL: Then you would come to Mr. Graham and ask him to cancel these entrusting orders and to put the railways back where they belonged.

Hon. Mr. GORDON: We are at the point where we do not want experimental things.

Mr. RUEL: If anybody will suggest a better scheme than mine, I will abandon mine now. All I am trying to do is to provide something helpful.

Hon. Mr. LYNCH-STANTON: If we had a pooling agreement, we would come within yours.

Mr. RUEL: This is a pooling agreement.

Hon. Mr. LYNCH-STANTON: If we had a pooling agreement under our Bill we would come within the purview of your Bill.

Mr. RUEL: No, not the whole way. I happened to have something to do with the first draft of this Bill. I put in a provision that they might pool, but the Royal Commission did not want to permit pooling in entirety; but only in part.

Hon. Mr. LYNCH-STANTON: But the essential feature of your bill is pooling?

Mr. RUEL: Yes.

Hon. Mr. McRAE: We all appreciate that there is a large useless railway mileage estimated, I believe, under the best management at about 5,000 miles. I think Mr. Beatty said that under this bill possibly 1,600 miles might be discarded. Under your plan how much advantage would be taken of that most outstanding method of economy in railway operations?

Mr. RUEL: That is a point entirely for the men you appoint. The Government will appoint five men, the C.P.R. five. I am assuming you appoint capable business men, and I am hoping they will do the same thing in producing econ-

omies. That is all you can say, senator. If you are on the job, you know that is exactly what you try to do. We shall have to trust to getting the best men on the job, men who will look at the situation as you would do and act similarly.

Hon. Mr. McRAE: In that connection, to make anything like full use of that avenue of economy, would it not mean more or less scrambling of these two roads?

Mr. RUEL: No, because we provide a rehabilitation fund to unscramble when Parliament says they have had enough of that.

Hon. Mr. LAIRD: Mr. Ruel, you have read the bill that is now before the committee?

Mr. RUEL: Yes.

Hon. Mr. LAIRD: You are aware, of course, that it is in three parts?

Mr. RUEL: I drew it myself.

Hon. Mr. LAIRD: Part 3 provides for an arbitral tribunal. Mr. Beatty has told us that the bill is not objectionable to him with the exception of part 3. Having in mind the suggestion made by Senator Calder that Parliament should not adjourn until something constructive was done to stop this terrible waste for the next five or six months, in your opinion would it avail the purpose which you seek if Parliament, before adjournment, passed part 1 and part 2 of this bill and left the compulsory features of part 3 for further consideration?

Mr. RUEL: If I might make a suggestion to this honourable committee—something that I am not accustomed to do—they might pass a resolution pointing out what the two companies should do, wording it how they like.

The CHAIRMAN: Are you through with Mr. Ruel, gentlemen?

Thank you, Mr. Ruel. You have given us a very interesting morning, and I think what you have told us will be very useful.

MR. RUEL'S DRAFT BILL

An Act to incorporate the Canadian Co-operating Railways, and respecting the Canadian National and Canadian Pacific Railway Systems and the Canadian Government Railways.

Whereas it is expedient in the public interest to co-ordinate the operation and management of the principal railway systems in Canada and their allied enterprises, for the purpose of ensuring needed economies and of avoiding unnecessary capital expenditures and duplication of services.

Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the Canadian Co-operating Railways Act.

2. The Governor in Council may nominate such persons as may be deemed expedient, not less than five nor more than seven, and the Board of Directors of the Canadian Pacific Railway Company may nominate the same number of persons, who together shall form the Board of Directors of the Company hereby incorporated, and upon such nomination being made the persons so nominated and their successors and such other persons as may from time to time be similarly nominated as Directors, shall be and are hereby incorporated as a Company under the name of Canadian Co-operating Railways, hereinafter sometimes called the Company and sometimes called the Managing Company.

(2) No stock ownership shall be necessary to qualify a Director.

3. The Directors shall hold office until their successors are appointed by nomination in the manner herein specified. Either the Governor in Council or the Board of Directors of the Canadian Pacific Railway Company, or both, may

at any annual meeting declare any or all of the nominations by them made to be vacated and may submit new nominations in lieu thereof, which new nominations shall take effect upon adjournment of the meeting. Any of the former Directors shall be eligible for renomination.

(2) Any vacancy occurring in the membership of the Board of Directors among the members of the Board nominated by the Governor in Council may be filled by the Governor in Council, and in like manner any vacancy occurring among the members nominated by the Board of Directors of the Canadian Pacific Railway Company may be filled by that Board. The continuance of a vacancy or vacancies shall not impair the powers of the Board of Directors.

(3) The annual meeting of the Company may be held upon the second Tuesday in April in each year, or upon such other date as the Directors may from time to time determine.

4. The Company shall not have any capital stock. The approval, sanction or confirmation of shareholders when required by law shall in the case of the Company be dispensed with.

5. The head office of the Company shall be in the city of Montreal.

6. The directors of the company may be paid such sums as may be fixed by the by-laws.

7. The by-laws of the company may provide for an Executive Committee and other committees of the Board of Directors, to exercise such powers as the by-laws may specify.

8. Upon the Managing Company being organized, such of the companies comprised in the Canadian National Railways as are listed in Schedule "A" to this Act, and such of the companies comprised in the Canadian Pacific Railway System as are listed in schedule "B" to this Act, shall execute entrusting instruments in the form set out in schedule "C" to this Act, whereupon the Managing Company shall be entrusted for management and operation in every particular with the whole of the undertaking of the respective companies so executing, and with all properties, assets and works of whatsoever description, and interests therein, and all franchises, powers, rights or privileges with respect thereto; subject, however, to the provisions of this Act and to all statutes, obligations, contracts, agreements or duties (not inconsistent herewith) to which each of the companies so executing was subject at or before the time when the entrusting instruments come into effect.

(2) In like manner the Governor in Council may by Order in Council authorize the Minister of Railways and Canals to execute an entrusting instrument in similar form, with appropriate changes, of the whole or any part of the Canadian Government Railways which it may be deemed expedient to entrust to the Managing Company for management and operation. In such case a general description of the lines so entrusted shall be sufficient to entrust to the Managing Company all the properties, assets and works of every description, and interests therein, and all franchises, powers, rights or privileges with respect to the Canadian Government Railway lines so entrusted, subject to all statutes, obligations, contracts, agreements or duties (not inconsistent with the provisions of this Act) to which such lines were subject at or before the time when such entrusting instrument came into effect.

(3) The expression "the owning companies" as hereinafter used, shall mean all companies (including His Majesty the King in the right of the Dominion of Canada, in respect of the Canadian Government Railways) at any time entrusting any railways, properties or works of any description to the Managing Company by virtue of this section.

(4) From time to time the properties and works of other companies not listed in the Schedules hereto may in like manner be entrusted to the Manag-

ing Company for management and operation; and with the consent of the Governor in Council and of the Canadian National Railway Company and the Canadian Pacific Railway Company such companies whose undertaking and works appear to be no longer of value, or of but little value, to the combined enterprise may be permitted to withdraw the entrusting instrument executed by them or any of them.

9. The entrusting instruments shall continue in force and effect for the period of years from the date hereof, and thereafter until Parliament authorizes their cancellation. Upon cancellation each of the Owing Companies shall be restored to the full management and operation of its respective undertakings and works as then existing, with all their respective powers, rights and privileges unimpaired, save only in so far as such undertakings and works may have been changed, altered, modified, impaired or improved by virtue of the administration of the Managing Company hereunder.

10. The Managing Company is expected and directed to conduct the management and operation of the various undertakings and works entrusted to it hereunder as one undertaking or combined enterprise, in order that duplication of services may be avoided consistent with the reasonable requirements of traffic, and that all unnecessary extravagance and unreasonable expenditure be curtailed. It shall have power to curtail, alter or discontinue any services or facilities, whether unprofitable or producing insufficient profit, and whether on unprofitable or profitable lines of railway or other works, and with the consent of the Owing Company affected may close, dismantle or abandon any works or facilities. The Board of Railway Commissioners for Canada, in so far as they may have jurisdiction shall co-operate with the Managing Company in the reasonable furtherance of this purpose.

11. Without restricting the generality of the powers of the Managing Company in respect of such management and operation, as expressed in Section 8 of this Act, the Managing Company may from time to time provide for the engagement and retirement of all officers and employees, the fixing of salaries and compensation, and the prescribing of their duties, the filing of tariffs of tolls of every description, and the fixing of rates and charges of all kinds, the making of contracts and agreements respecting the carriage or handling of traffic, respecting repairs, renewals and improvements, the making of leases or licences not exceeding five years duration, insurance, the negotiation of sales of properties, and all other matters incidental to operation and management whatsoever; the signing and execution of all necessary documents, the collection of income from every source and the payment of all proper expenses, the settlement and adjustment of all claims and demands whatsoever, and the enforcement thereof or of any liens by adequate proceedings, and the defence of all claims legally contested.

(2) All such matters and things may be performed by the Managing Company in its own name or in the name of any of the Owing Companies affected, at discretion, but nothing so done or performed shall make the Managing Company directly liable for any obligations of the Owing Companies unless expressly assumed by the Managing Company in writing, nor shall be taken to give to any third persons any cause of action, right, privilege or remedy against the Managing Company which they would not otherwise have.

(3) All officers and employees engaged in the operation and management of the undertakings and works so entrusted shall continue to be officers and employees of the respective Owing Companies, even though paid by the Managing Company from the moneys controlled by it. The Managing Company shall be treated merely as an agent or manager of the Owing Companies.

(4) The Managing Company may during the continuance of the entrusting instruments exercise any of the powers, rights, privileges and franchises entrusted to it (except those of the Crown) for the benefit of all or any of the Owing Companies or their respective undertakings and works so entrusted.

12. In addition to the keeping of such accounts as shall be necessary in the interests of the respective Owing Companies, the Managing Company shall keep consolidated accounts showing the income and expenses incidental to the operation and management of all the undertakings and works entrusted to it under this Act. After payment of all working expenses and making provision for working capital, the Managing Company shall divide the net operating income among the Owing Companies in the manner following:—

(Here follows such scheme of division as may be arranged.)

13. The Managing Company may not sell or dispose of any lands or interests in lands forming part of the undertakings and works so entrusted to it, nor execute leases or licences in excess of a five year term without the consent of the Board of Directors of the Owing Company affected.

14. During the continuance of the entrusting instruments the Boards of Directors of the respective Owing Companies shall be reduced to three members.

15. The offices of the President and Chairman of the Managing Company shall be separate offices. The Directors of the Managing Company shall in the first year agree among themselves which group of such Directors, namely, those nominated by the Governor in Council or those nominated by the Canadian Pacific Railway Company shall appoint the President. The other group shall appoint the Chairman. In the following year the group which appointed the President in the previous year shall appoint the Chairman for such following year, and the other group the President, and so on until the entrusting instruments are cancelled.

16. Add section respecting capital expenditures.

17. Add section respecting issue and guarantee of securities for capital expenditure.

18. Add section respecting deposit of securities of Owing Companies for their allocated proportion of capital expenditures made upon their respective undertakings.

19. Add section respecting winding up upon cancellation of the entrusting instruments.

20. Add section providing a formula for compensation to any Owing Company for deferred maintenance to which such Company may be entitled on cancellation of the entrusting instruments.

21. Add section respecting suspension of joint ownership and joint operation agreements between the Owing Companies during continuance of the entrusting instruments.

The CHAIRMAN: Gentlemen, I have asked Mr. Phinney to be prepared to answer any questions that you may wish to put to him.

Hon. Mr. BLACK: Mr. Chairman, yesterday Col. Phinney made reference to the possibility of the Maritime freight rates being superseded by this bill. Why has he that impression?

Mr. PHINNEY: Mr. Chairman, the fear that has been engendered in the Maritime Provinces with respect to that particular feature has been largely owing to the fact that during the past year especially the Maritime Freight Rates Act has been very much violated. The railways are up against a very serious proposition so far as their Atlantic seaboard traffic is concerned, because of the water carriage which is developing very fast from the Great Lakes, down the St. Lawrence and to the terminal ports in the Maritimes, not only for domestic distribution but for export as well. In order to meet that competition the railways this year arbitrarily, and I say in violation of the Freight Rates Act, reduced rates to a very marked degree in so far as those commodities are concerned, and there are many—

Hon. Mr. BLACK: You mean east bound rates?

Mr. PHINNEY: Yes. The Maritime Freight Rates Act maintains a ten per cent difference, as you gentlemen know, in so far as those commodities are concerned. I suggested yesterday that unless that situation was continuously watched by those who had the interest of that part of Canada particularly in mind, and also the necessity of maintaining the Maritime Freight Rates Act, that that Act would possibly go by the board. Therefore we are concerned in our major proposition placed before this honourable body yesterday that the Board of Trustees so appointed have at least one representative who can continuously keep before the managing body of the railways that major factor.

The CHAIRMAN: Would it not be possible to insert in this bill a clause saying that it should not interfere with the Maritime Freight Rates Act?

Mr. PHINNEY: That was my suggestion, Mr. Chairman.

The CHAIRMAN: Could not that be done?

Right Hon. Mr. MEIGHEN: That is all right.

Hon. Mr. BLACK: That answers my question, I think. I gathered that possibly Col. Phinney feared that this bill might supersede in some way the Maritime Freight Rates Act, but I do not think that is possible. I will ask the leader of the Senate, through the Chairman, for his version of it.

Right Hon. Mr. MEIGHEN: I do not think it does, but there is no objection to putting in a clause making certain that it does not.

Hon. Mr. BLACK: That is quite satisfactory.

Hon. Mr. ROBINSON: That does not give the protection necessary, Mr. Phinney. As I understand, the operation of the railways in reducing freight rates on eastbound traffic is gradually doing away with the Maritime Freight Rates Act.

Mr. PHINNEY: Yes.

Hon. Mr. ROBINSON: This protection would not give you any more than you have now.

Mr. PHINNEY: I think if we had that statutory protection, plus sympathetic operation, an operation with a knowledge of the situation—

Hon. Mr. ROBINSON: You want a director?

Mr. PHINNEY: Yes.

The CHAIRMAN: That question of a director will depend on the Government.

Mr. PHINNEY: Yes, sir.

Hon. Mr. LAIRD: Col. Phinney, I notice in your presentation you suggest five trustees.

Mr. PHINNEY: That was my suggestion.

Hon. Mr. LAIRD: And that they should be appointed as representing geographical locations?

Mr. PHINNEY: Yes.

Hon. Mr. LAIRD: Now, we have recognized that principle in a great many cases, but I confess I do not see the virtue of it. The Government will have a difficult problem in selecting men of the proper type to fill the positions of trustees, and I should like to ask you if it is an inherent part of your plan that the trustees should be appointed from geographical districts? In other words, should available and desirable men not be considered if they do not happen to live in certain locations?

Mr. PHINNEY: Our submission asks that the principle of appointment from geographical divisions be fully observed as far as it is physically possible to do so. Of course, if a board of only three trustees is constituted, as suggested

in the Bill it would be impossible to fulfil geographical conditions, but if it should be decided to have a board of five I think it would be possible to make appointments from geographical districts, generally speaking. There may be instances when that principle could not be adhered to, but as a rule I think it would be found quite practicable to have appointments made from five geographical divisions. The board would then be possessed of a knowledge of local conditions throughout the country.

Hon. Mr. LYNCH-STAUTON: Would you make them all live in one place after they are appointed?

Mr. PHINNEY: I would think so, sir.

Hon. Mr. LYNCH-STAUTON: Then we will have to pay them large salaries.

The CHAIRMAN: The Bill contemplates that they will be only part time men.

Hon. Mr. MURDOCK: In addition to suggesting the appointment of not less than five trustees from different sections of Canada, you also said:—

It is more than probable that, in the interests of good management of the Canadian National Railways, labour should as well be represented on the board of trustees.

Do you regard that as essential?

Mr. PHINNEY: I regard that as essential.

Hon. Mr. LAIRD: How can you carry out the principle of geographical representation if you are to have a representative of labour?

Mr. PHINNEY: The geographical principle would be followed as far as possible.

Right Hon. Mr. MEIGHEN: Would you be satisfied with a good labour man who comes from the Maritime Provinces?

Mr. PHINNEY: Yes.

Right Hon. Mr. MEIGHEN: And no other Maritime man on the board?

Mr. PHINNEY: I would say yes.

Hon. Mr. BLACK: That answers a question I was going to ask. There are lots of labour men with brains in the Maritime Provinces, and there is no reason why one of them should not be appointed to the board. One of the five trustees might well be a labour representative.

Hon. Mr. MACDONNELL: Are the farmers to be represented also?

Mr. PHINNEY: I am not suggesting that.

The CHAIRMAN: Are there any more questions to be asked of Mr. Phinney? The various propositions that are being submitted here contain difficulties that will have to be studied by the Government.

Now we are to hear from Mr. A. R. Mosher. Whom do you represent, Mr. Mosher?

Mr. A. R. MOSHER: Mr. Chairman, the memorandum I have is submitted by the National Railway Labour Unions of Canada, composed of the Canadian Brotherhood of Railway Employees, the Canadian Association of Railway Enginemen, Conductors, Trainmen, Yardmen, Telegraphers and Dispatchers, the Electrical Communication Workers of Canada, the Ship-by-Rail Association, Moncton, New Brunswick, the Ship-by-Rail Association of Quebec, the Affiliated Railwaymen's Organizations of Ontario, the National Labour Council of Toronto, and the All Canadian Congress of Labour.

Hon. Mr. LYNCH-STAUTON: Are your unions distinct from those that we heard here yesterday?

Mr. MOSHER: Yes.

Hon. Mr. LYNCH-STANTON: The Order of Railway Conductors was heard yesterday.

Mr. MOSHER: I am here on behalf of a national group of conductors, trainmen, and so on, who are organized in national unions as distinct from international unions.

Right Hon. Mr. MEIGHEN: Which are the more authoritative, yours or the other ones?

Mr. MOSHER: I shall have to leave that for the Committee to decide.

Hon. Mr. LYNCH-STANTON: Are you representing an American institution?

Mr. MOSHER: No, sir, a Canadian institution, purely and simply.

Hon. Mr. LYNCH-STANTON: The Order of Railway Conductors were here yesterday.

Mr. MOSHER: The Order of Railway Conductors, sir, is an international organization with headquarters in the United States. The Canadian Brotherhood of Railway Employees, and the other organizations I have mentioned, are purely Canadian organizations with headquarters in Canada.

Hon. Mr. LAIRD: Have you different views?

Mr. MOSHER: Well, the committee can decide that after I have read the memorandum, if I may be given permission to read it.

Hon. Mr. DANDURAND: But if you cover the same ground that the other unions covered, you may be able to shorten your remarks.

Mr. MOSHER: I do not think we cover the same ground.

The CHAIRMAN: I think Mr. Mosher had better read his memorandum and then we can form our own conclusions. The national and international organizations do not see eye to eye with respect to some things.

Mr. MOSHER: (Reading):—

Mr. Chairman and Honourable Gentlemen:

We appreciate the opportunity of presenting to your Committee the views of Canadian Railway workers organized in National Unions, with respect to the proposed legislation which you are now considering.

The railway workers whom we represent recognize that the problem with which this legislation deals is of transcendent national importance, and that there is bound to be a diversity of opinion as to the best course to pursue.

In the circumstances, the views we now place before you, although at variance with the recommendations of the Royal Commission, and the opinions of the supporters of this Bill, are submitted in good faith, and are based upon a deep and serious study, not only of transportation problems but of general economic conditions in Canada and elsewhere throughout the world.

I

With respect to the recommendations of the Commission and the provisions of the Bill based upon them, it is obvious that their primary purpose is the effecting of operating economies for the protection of the financial credit of Canada and the security-holders of both railways. Inasmuch as these economies will bear most heavily on the railway workers, we are unequivocally and unreservedly opposed to any legislation which has this object in view.

II

With regard to the relatively minor question of the administration of the Canadian National Railways, dealt with in Part One of the revised Bill, we desire to submit the following recommendations:

1. That the Board of Trustees of the Canadian National Railways consist of five members, two of whom shall be representative of railway labour.

2. That no limitations be placed upon the Government in its choice of trustees, such as are now contemplated in section 5 of the bill, except that no appointee shall be a director or shareholder in any other transportation company.

3. That, in filling vacancies on the Board of Trustees, the Government should not be limited in its choice to a panel submitted by the remaining trustees or trustee, as is provided in section 7.

4. That no restriction be placed upon the authority of the Governor-in-Council to remove any trustee from office, such as is now provided in section 8.

5. That, in all decisions of the Board of Trustees, a majority shall govern.

III

The essential purpose of the proposed legislation is expressed in Parts Two and Three of the Bill, providing for voluntary and enforced co-operation of the Canadian National and the Canadian Pacific Railways.

The extent to which economies in the operation of the two railways are authorized will be revealed by a study of these portions of the Bill, particularly section 16 of Part Two.

The railway employees for whom we speak are opposed to any measures of economy which will increase unemployment, and thus intensify the industrial depression from which the country is suffering at the present time. Unquestionably, in the railway industry, as in all others, the elimination of competition will bring about great economies. If, however competition between the Canadian National Railway and the Canadian Pacific Railway is to be restricted by legislation, is it not logical to urge that competition between all public carriers as well as between all other industries, be abolished? Railway workers have no objection to the co-ordination of the transport industry, and of all other industries, provided that they share in the benefits by shorter hours, higher wages, and greater continuity of employment, but they must oppose any form of co-ordination which not only does not benefit them, but takes away from them their means of livelihood. Until a system of planned economy is established, and all workers are assured employment, they must insist on the preservation of competition.

IV

We also desire to make the following observations in this connection:

1. We are strongly of the opinion that economies brought about by the wholesale dismissal of railway workers will accentuate rather than solve our economic difficulties. The reduction of purchasing power which would result would have a far more disastrous effect upon Canadian

industry and the public welfare than those which would follow a continuation of the present policies with respect to the payment of Canadian National Railway deficits and the competitive relationships between it and the Canadian Pacific Railway.

(2) The economies envisaged by this legislation will mean the discharge of approximately 40,000 railway workers, all of whom have given practically their entire lives to the industry, and thus drive into the bread-lines a total number of railway employees and dependents as large as the population of a city the size of Ottawa. But this is not all. For every railway worker so laid off at least one additional worker in other branches of industry, or in commerce, will be added to the ranks of the unemployed.

(3) This proposed legislation will not only mean tremendously increased unemployment of workers, but economic ruin for thousands of trades-people who are dependent on the purchasing power of railway workers in every railway centre across Canada. It will mean the disappearance of railway towns and municipalities, with consequent loss to property-owners and holders of municipal bonds. In other centres, it will mean additional tax burdens on citizens who will have to pay the cost of relief to laid-off railway workers as well as the share of the municipal revenues which they formerly contributed.

(4) This proposed legislation will mean the abandonment of branch lines which were built on the authority of Parliament for colonization purposes, for feeders or for political reasons. Aside from the social responsibility of Parliament to continue railway service to those who settled along these lines, there is to be considered the economic loss which would result from cutting off these settlers from markets, and the consequent destruction of property values.

(5) The losses which will follow the enactment of this legislation will more than counter-balance any gains to the country which further rationalization of the railway industry will achieve. We have already dealt with the probable losses. What will be the gains? Assured incomes for Canadian Pacific Railway security-holders and a reduction in the amount of the Dominion Government's annual Budget. Are these gains of sufficient importance to warrant the tremendous sacrifices which will be imposed on railway workers particularly, and the people of Canada generally?

(6) We must consider also whether these sacrifices are necessary. Have the Canadian railway workers and the Canadian people any obligations to ensure the payment of interest and dividends to Canadian Pacific Railway security-holders? We think there is no such obligation. And does the Canadian Pacific Railway need government-enforced economies at the expense of Canadian railway workers and the Canadian people? For the nine years, 1923-31, inclusive, the Canadian Pacific Railway had a total net income of \$435,018,749 available for interest and dividends. This represents a levy of \$5 per year from every man, woman and child in the country. Its operating ratio was lower in 1931 than it was in 1923 by .07 per cent.

(7) Is there any objection on behalf of the Canadian people generally to the assumption of the deficits of the Canadian National Railways? Has Parliament any mandate to enact this legislation? To the first question it may be replied that the objection comes not from the Canadian people but from the New York bankers, who, according to the Honourable H. H. Stevens, served notice on the Government that it must "straighten out the Canadian National Railways." To the second question the reply

is that the mandate is clearly to the contrary. The question of the amalgamation of the Canadian National and the Canadian Pacific was an issue in the last Dominion election, and it was the insistence of the Canadian people that there should be no interference in the situation which brought forth the declaration of the present Prime Minister: "Competition ever; amalgamation never." It was upon this policy, to which the Government is thus definitely pledged, that Mr. Bennett based one of his claims to popular support. Nothing can justify any departure not merely from the letter but from the spirit of it. This legislation means amalgamation in fact, if not in law, and is wholly at variance with the policies of all the political parties of Canada.

(8) The right of Parliament to single out the railway industry for rationalization of the kind recommended by the bankers, must also be questioned. What about the other industries whose inefficiency is a greater burden on the Canadian people than the railways? If Parliament has the right to protect by legislation the Canadian Pacific Railway security-holders, is it not its duty also to protect the security-holders of other industries? We submit that it has no more right in the one case than it has in the other.

(9) The lack of consideration of the human element in this proposed legislation is strikingly apparent. No provision is made, or suggested, for the payment of compensation to those who are to be let out, either for the time and energies they have devoted to the railway service, which constitutes a stake in the industry, or for the property losses which they will sustain.

In addition to this aspect of the proposed legislation, there is not, apparently, any suggestion that railway security-holders should themselves bear any of the burdens resulting from reduced earnings. Canadian National Railway bond-holders have suffered no diminution in the returns on their holdings. Not only have they been receiving interest payments regularly at a guaranteed rate, but the bonds which they hold, many of which would have been worthless had it not been for Government action, are guaranteed as to principal. Canadian Pacific Railway bond-holders likewise have received their interest payments regularly, and the holders of its common stock over a long period of years have obtained handsome returns on their investment.

On the other hand, the employees of the two systems have been obliged to accept a substantial reduction in basic rates of pay, and thousands have been obtaining part-time employment only, for three years. Approximately 80,000 have lost their jobs during the same period.

In the face of this disparity in the treatment accorded the security-holders and the employees, should consideration not now be given to lessening the burden on the employees by making effective a substantial reduction in interest and dividend payments? Railway workers spend all their wages in Canada; more than two-thirds of the total security-holders reside in foreign countries. In the present condition of unemployment a reduction in interest payments would be more justifiable, in the interest of the country, than depriving many additional thousands of workers of the opportunity of earning a livelihood. A reduction in interest would be in line with Government policy both here and in Great Britain.

(10) Canada's railway rate structure is based upon the idea that transportation is a practical monopoly. The advent of the motor bus and the motor truck as common carriers has brought about a degree of competition in the industry which was not envisaged when the Board of Railway Commissioners was formed, or when the present rate structure was

established. This structure, which is dictated by government policy, presupposes that the general economic interest is best served by obliging the railways to carry low-priced bulky raw materials and basic commodities at very low rates, and allowing them to charge high rates on high-priced commodities. Motor vehicle competition has, to an alarming degree, reduced the amount of high-rated tonnage on which the railways heretofore could rely. This means that present railway revenues have to be obtained largely from low-rated tonnage. Restrictions on railway revenues should therefore be removed and the railways allowed to charge rates which would return them their costs plus reasonable profits. An increase in freight rates to the same level as that which now prevails in the United States would remove any financial difficulties from which Canadian railways may suffer.

(11) The question of the unfair competition which the railways at present endure from motor trucks and busses is more serious than the competition between the railways themselves. Neither the Government nor Parliament, apparently, is taking any steps to carry out the recommendations of the Royal Commission on Railways and Transportation with respect to this question. These recommendations are comprehensive, and immediate action by the Government along the lines indicated is imperative.

V

The present financial difficulties of the Canadian National and the Canadian Pacific Railways are not due to operating inefficiency. In 1928, a year of record freight movement, Canadian railways, with 1,667 fewer employees than in 1913, operated 40 per cent more mileage and handled 100 per cent more ton-miles of freight. Extravagances, if any, were in the field of capital expenditures which are now recognized as unwarranted, and which have placed a heavy burden of debt on the two railways. We would recommend in this connection that existing legislation be amended in such a manner as to require the approval of the Board of Railway Commissioners for Canada, or the Exchequer Court, for all capital outlays.

VI

In our opinion, there can be no solution of the railway problem which does not also involve the whole industrial system of Canada. We believe that a solution must lie along the lines of the public ownership and operation of the means of production and transportation for the sole purpose of meeting the needs of the people. We are also of the opinion that industry can continue to function only if the population of Canada is provided with sufficient purchasing power to enable it to obtain the goods which industry produces. Any further restriction of purchasing power, such as is contemplated, will result in an intensification of the present depression. As a matter of fact, to increase unemployment is to widen the vicious circle already in operation, and to paralyze industry still further.

VII

The Government has only two means of securing the amounts it requires to carry on the public services, and to pay the deficits of the Canadian National Railways, namely: from borrowing and from taxation. As Senator Meighen stated yesterday before your Committee, the

Government has reached a point at which it will be increasingly difficult to go on borrowing. If the proposed economies are carried out, resulting in the dismissal of many thousands of railway employees, the effect on industry in general will be so great that the revenue from taxation will be still more severely restricted, and make the task of the Government still more onerous.

VIII

Since the purpose of the proposed legislation is to effect economies through the necessity of meeting large annual interest payments, we believe that the desired economies can be accomplished with the least injury to the welfare of the people of Canada, by reducing the rate of bond interest and by increasing freight and passenger rates. The holders of railway securities are in a better position to bear the burdens arising out of the present situation than are the railway workers, while the increase of freight and passenger rates will fall on industry generally, and be no greater than the increased taxation which it will have to bear to meet the demands upon it for unemployment relief.

IX

We may therefore summarize our position with regard to this proposed legislation as follows:—

1. We are opposed to the enactment of legislation which will have the inevitable result of throwing many thousands of railway and other workers out of employment, destroying property values and still further disrupting industry.

2. We are firmly of the opinion that if this bill is passed the losses which will result will more than counter-balance any gains which may possibly be achieved.

3. We believe that the Government and Parliament have no mandate from the Canadian people to put into effect a virtual amalgamation of the two great railway systems of this country.

4. The railway workers of Canada, through loss of employment, part-time work, and wage-reductions, have already borne more than a fair share of the burden imposed upon the railways by the economic depression. We feel that the holders of railway securities should now be required to share the burden by accepting a lower rate of interest.

5. If the revenues of the railways are not sufficient to meet their requirements, freight and passenger rates should be increased, thus distributing more equitably the charges payable by the industry.

May I say, Mr. Chairman, that I have associated with me to-day Mr. N. S. Dowd, Associate Editor of the Canadian Railway Employees' Monthly, Mr. W. T. Burford, Secretary-Treasurer of the All-Canadian Congress of Labour, and Mr. J. E. McGuire, General Chairman of the Central region of the Canadian National Railways.

The CHAIRMAN: Any questions, gentlemen?

How would you suggest reducing the interest on bonds not yet matured?

Mr. MOSHER: That is a problem for the Government and this Committee to consider. They may be able to do it by putting on another bond issue at a lower rate to replace the one now in the hands of the people.

The CHAIRMAN: But you cannot do that without the consent of the present bondholders. What effect would that have on the borrowing power of Canada if those who invested their money in our bonds found that Parliament some day would reduce the rate of interest?

Mr. MOSHER: Mr. Chairman, I am not in a position to say what those who are in the market to loan money might think of the Federal Government if they did that, but I am in a fairly good position to say what reasonably minded people in Canada and elsewhere would think if we allow 900,000 unemployed people and their families to go hungry simply that we may be able to continue to pay bond interest.

Hon. Mr. BUREAU: Who would be willing to exchange their present bonds for bonds bearing a lower rate of interest?

The CHAIRMAN: You would have to have the consent of both parties to the contract.

Hon. Mr. LAIRD: Is the gentleman aware that by reason of the low rate of interest on the recent Government issue of \$80,000,000 there was very great difficulty in placing the bonds?

Mr. MOSHER: I am quite aware of that fact.

Hon. Mr. LAIRD: How then can you possibly suggest that there should be a conversion of outstanding loans and present bondholders should be asked to accept a lower rate of interest than that which the Government have contracted to pay them?

Mr. MOSHER: I did not say, senator, that was necessarily the course to follow. I said that might be done. I think we will quite agree that there has been no diminution in the natural wealth of Canada, and that if we put the unemployed to work we could produce sufficient wealth to pay all bondholders.

Hon. Mr. LAIRD: How?

Mr. MOSHER: By producing the goods and services needed by the people to-day, but which they cannot secure.

Hon. Mr. GORDON: You suggest that freight rates should be increased?

Mr. MOSHER: Yes, sir, if that is necessary in order to carry on.

Hon. Mr. GORDON: I think you should know that if the freight rates were increased business would get worse and worse. Let me illustrate. Supposing you were getting in the United States a small market for lumber—there is not much of a market now—at the present time that commodity has to be delivered there at a very, very low price to compete with their domestic lumber, and if you increased your freight rates you would cut that business out entirely. Now, if you had no freight to move, there would be no work for the employees of the railways, so you would make the present condition worse and worse.

Mr. MOSHER: We could still increase the freight rates and they would not be as high as the United States freight rates. So that competition is not to be feared.

Hon. Mr. GORDON: But you have to deliver the commodity over there to do business.

Hon. Mr. BUCHANAN: Are not the railroads in the United States even with their increase of freight rates in as difficult a position as the railroads of Canada?

Mr. MOSHER: I think probably they are—and they are not under Government ownership either.

Hon. Mr. BUCHANAN: If increased freight rates have not helped the United States railroads, how would you expect to improve the position of the railways here by increasing the rates?

Mr. MOSHER: Well, it may not have helped United States railways, yet it may help us.

Hon. Mr. DANDURAND: I can hardly see how it would help the western farmer, who I am told is being paid only 25 cents a bushel for his wheat just now. The increased freight rates would eat up practically the whole thing?

Mr. MOSHER: That may be quite so, but it must be borne in mind that increased freight rates would more equally distribute the burden of any economies that are to be effected.

Hon. Mr. FORKE: Wheat is selling in Calgary at 22 cents a bushel, and it costs about that much to move it down to Fort William. If the freight rates were increased there would be no use shipping wheat from that point.

Mr. MOSHER: If we put a proper economic system into effect the farmers would not have to starve.

Hon. Mr. LYNCH-STAUTON: What is "a proper economic system"?

Mr. MOSHER: An economic system under which we would have co-operation rather than profit-seeking competition.

Hon. Mr. MOLLOY: Mr. Mosher, you have dealt largely with the human element, and justly so. That was also mentioned here yesterday. Is the charge true that in the days of prosperity the railways were largely overmanned?

Mr. MOSHER: I cannot say that is so. We must realize that some years ago we had a scrambling of railways all over this country, and a larger number of employees were necessary than would be required under a consolidated scheme. But I do not know of any period when the railways were grossly overmanned. But even if the railways were or are overmanned, I still maintain it is a good deal better to have that situation and give men work than it is to turn them on the streets and have them relying upon charity.

Hon. Mr. McDONALD: With reference to the suggested appointment of two labour representatives on this body, will you tell us how you think they should be selected?

Mr. MOSHER: They should be selected by the Government. In view of the fact that railway workers' organizations are divided into two classes, one of which may be termed American organizations with Canadian branches and the other purely Canadian organizations, I suggest that the Government consider appointing one man from each group.

Hon. Mr. LYNCH-STAUTON: Why should there be two representatives of labour?

Mr. MOSHER: Because I think labour should have that number of representatives. No one knows how the railways may be operated in the interest of the public, better than the railway workers themselves who have devoted their lives to the industry.

Hon. Mr. LYNCH-STAUTON: Why would not one representative be sufficient?

Mr. MOSHER: If one would be sufficient for labour, why would one not be sufficient for all other classes?

Hon. Mr. LAIRD: I come from Western Canada and I represent two million people, many of whom are trying to make a living by growing wheat and selling it at approximately 25 cents a bushel. Now, is it your theory that these two million people on the prairies should have no representation on this board, but that the railway workers should have two representatives?

Mr. MOSHER: I am not speaking on behalf of the farmers.

Hon. Mr. LAIRD: No, but I am asking you for your opinion. I am representing farmers and other people, about two millions altogether. Is it your suggestion that these people would not be entitled to a representative on that board, but that the railway workers would be entitled to two representatives?

Mr. MOSHER: I have not made any suggestion of that kind. There is room enough for representation of the farmers.

Hon. Mr. LAIRD: But impliedly that is your argument?

Mr. MOSHER: No, I would not say so. Give the farmers representation, if they want it.

Hon. Mr. LAIRD: You claim that the railway workers should have two representatives. If your suggestion were followed out do you not think that other groups would demand representation on the board? And if so, would you say that they are not entitled to any?

Mr. MOSHER: Not necessarily. You must remember that I am claiming representation for men who are giving their lives to this industry and who should control the industry, in my judgment.

Hon. Mr. LYNCH-STANTON: Then you could soak the farmers for higher rates.

Hon. Mr. LAIRD: Let us have a fair understanding. Remember, I want to treat you with every courtesy. Do you seriously argue that the railway workers should have two representatives on this board of trustees and that the farmers of Canada should not be entitled to any special representation?

Mr. MOSHER: No, I am not saying that. Other interests may have representation, if they desire.

Hon. Mr. LAIRD: But you want to make sure that railway employees are represented by two trustees, and the farmers can look after themselves?

Mr. MOSHER: Absolutely.

Hon. Mr. McDONALD: Is it your idea that if the board were to be appointed especially to consider wheat questions the farmers should be well represented, and that if the board was expected to consider fish questions chiefly, then fishermen should be well represented, and so on? In other words, as the board will have to deal with railway problems you think that railway employees should be represented, but you are not questioning the right of any other classes to representation?

Mr. MOSHER: That is right. The workers should have a larger voice, and ultimately a controlling voice, in the industry to which they give their lives.

The CHAIRMAN: Are there any other questions?

Right Hon. Mr. MEIGHEN: If there are no other delegates, and I presume there are not, we might perhaps go on with the consideration of the Bill clause by clause, unless the committee feels that at this time it would be better to discuss some general features.

Hon. Mr. BUREAU: Before we go any farther I think we should have the report of the proceedings that have taken place to-day.

Right Hon. Mr. MEIGHEN: Then I suggest that we adjourn at the call of the Chair.

Hon. Mr. DONNELLY: It is possible that both Houses may adjourn to-night for some time. In view of the desirability of getting action on this Bill as soon as possible, would there be any objection to our meeting one week earlier than the date set for the reassembling of the House of Commons, so that we might be in a position to report on the measure when that House opens again?

Hon. Mr. BUREAU: The House of Commons will have plenty to do. I am opposed to that.

Hon. Mr. LYNCH-STAUNTON: We will have plenty of time when the House of Commons meets.

Right Hon. Mr. MEIGHEN: I do not think we could very logically ask the Senate to come back before the Commons meets. I think it would be difficult to get the members here.

Senator Calder gave a notice of motion, and I would like to make this comment. This committee has had committed to it only this Bill, and our only duty is to report regarding it. We might go beyond that and make a recommendation to the Senate. In that connection I have given some thought to the idea that is behind Senator Calder's resolution, and I intend to give it more thought. I do not see how it would be possible to take any action before adjournment, because I understand that there is a possibility of adjournment to-day. I also understand that the Prime Minister made the statement to the Commons several days ago that there would be no further Bills during this part of the session. Therefore, anything in the way of interim action in relation to railways would necessarily have to be deferred until we resume our sittings.

Hon. Mr. CALDER: Mr. Ruel expressed the opinion that a resolution would not be required, but that the will of Parliament with regard to what we have been discussing could very well be expressed by a resolution. Any resolution to have effect would have to be passed, I presume, by both Houses.

Right Hon. Mr. MEIGHEN: A resolution has no legal effect, even if passed by both Houses, unless there is a Bill providing that a resolution passed by both Houses shall have a certain effect. All that could be done, therefore, would be for one or both Houses to pass a resolution merely expressive of a desire. I understood Mr. Ruel to say that there is every facility now for co-operation. For myself, I am not convinced that he is right, but that is his view. I think that probably with a smaller personnel on the board of the Canadian National whose immediate object it was to produce economies, we likely could get results sooner, and in a bigger way. But I say that I think we cannot make provision for the smaller body, and cannot give consideration to it until we resume.

Hon. Mr. CALDER: My fear is that Mr. Ruel's position is not absolutely sound. He thinks that even with the present board of directors Mr. Hungerford would have the material necessary to enable him to co-operate with the C.P.R. towards effecting economies. I say frankly that I do not know. I could not name three of the members of the present board, but it seems to me that if the Government would appoint one or more additional directors—and I presume they have that power—

The CHAIRMAN: The number is limited.

Hon. Mr. CALDER: Then, could they require someone to vacate?

Right Hon. Mr. MEIGHEN: Only by statute. They could change the directors, but they would be just where they were.

Hon. Mr. CALDER: What strikes me is this. If voluntary co-operation is to be carried on until Parliament passes this Bill, Mr. Hungerford has to be strengthened in some way or other. He cannot go alone before the C.P.R.; he is more or less fearful of every action he takes; and if it is necessary to put two other directors in the places of existing directors, that can be done by the Government itself.

Hon. Mr. DANDURAND: I suggest this as the only possible action just now: that Senator Meighen—he is going to Council—and the Prime Minister should draft a resolution of twenty lines, to be presented by each of them in his own Chamber this afternoon, asking the two boards to co-operate more closely. Mr. Meighen is right in saying that it would only be an expression of opinion, but that is the only thing that could be done this afternoon.

Hon. Mr. BUREAU: The railway companies know, by the action taken by this committee, the Senate and the Government, that co-operation is all that is desired. They can get together without any resolution from the Senate or the House of Commons. The expressed desire of Parliament is on record. The press for the last ten or twelve days has been full of references to this, and the railway companies and the Government have been represented here. Let us not get panicky, as we did in 1917.

Hon. Mr. CALDER: I do not think my honourable friend is correct. As a matter of fact, Parliament is going to rise after doing nothing. What have we actually done? We have done nothing.

Hon. Mr. BUREAU: We have heard all the evidence presented.

Hon. Mr. CALDER: But what has Parliament done?

An Hon. SENATOR: What can you do?

Hon. Mr. CALDER: Anything that is done after consideration by the House of Commons and the Senate is very different from the mere passing of information from one to another across the board.

The CHAIRMAN: If you are going to pass a resolution, the suggestion made by Senator Dandurand is the most practicable. I do not think you can go much further than that at any time, unless you pass a Statute.

What do you think of this idea? This is the authority that has heard all the discussions and to which has been committed the introduction and the first stages of the legislation concerning the railways. Do you not think that a resolution of the Senate along the lines suggested would have a greater effect than doing nothing? It would have almost as great an effect as the passing of a resolution by the Commons. If we cannot go any further, I suggest that we should have a resolution of the Senate, which is the body that is in touch with the whole situation.

Right Hon. Mr. MEIGHEN: Senator Casgrain has one on the Order Paper.

Hon. Mr. LAIRD: It would have to be revised.

The CHAIRMAN: There is a resolution on the Order Paper. It may not be exactly in the form in which the Government or the Senate would like to have it, but it could be rearranged.

Is it your pleasure, gentlemen, to adjourn to the call of the Chair?

Some Hon. SENATORS: Carried.

The committee adjourned to the call of the Chair.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 6

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESS:

Mr. D. B. Hanna, Toronto, Ontario.

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Honourable GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	Lewis
Barnard	Lynch-Staunton
Beaubien	McArthur
Béique	Marcotte
Béland	McDonald (<i>Shediac</i>)
Bourque	McLennan
Buchanan	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Dennis	Murphy
Donnelly	Paradis
Forke	Pope
Gillis	Rankin
Gordon	Raymond
Graham	Robertson
Green	Robinson
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Laird	Turgeon
Lacasse	Webster.
L'Espérance	

[Quorum 9]

THE SENATE,

WEDNESDAY, February 1, 1933.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A, intituled "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 10.45 a.m.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: We are resuming where we left off before the recess. Senator Meighen will explain some things.

Right Hon. Mr. MEIGHEN: Since the adjournment Bill A has been redrafted, and the redraft—we may call it the first redraft—is in the hands of all members of the committee. This redraft consists of the Bill as tentatively accepted to date. That is to say, all amendments tentatively agreed on are in this Bill. Such amendments as are in the nature of excisions are in italics and bracketed; the words so printed are words that the committee has tentatively decided to strike out. Such amendments as are in the nature of additions are underlined; The committee has tentatively decided to add them.

Honourable members will find annexed to Bill A quite a lengthy list of further amendments that will be moved. Over two-thirds of them are merely verbal. Others are for the purpose of changing the nature of the Bill in this respect, that instead of endeavouring to force obligations on a system, the obligation in each case is put on legal entity, the Canadian National Railway Company, in one case, the Canadian Pacific Railway, in the other case, each company to be the agent obliged to carry out for the other companies in their systems the obligations fixed in the Act. The counsel for the committee has felt that that is essential in order to reach the object at which the Bill is aimed. Other suggested amendments are such as have been brought to our notice by delegates from the Maritime Provinces, from labour organizations, and so forth. They have not been considered yet. Still other amendments will be found in the annex, which have been suggested by this committee.

Hon. Mr. BEAUBIEN: They are not annexed to the Bill.

Right Hon. Mr. MEIGHEN: Copies will be supplied to all honourable members.

The CHAIRMAN: Well, gentlemen, when you look at this end of the table you realize what our program is to be for this forenoon. Senator Meighen, Senator Dandurand and myself thought it would be a good idea to have Mr. Hanna come down here and give us the benefit of his long and successful experience in railroading to help us out in coming to a conclusion on the difficult problem we have before us. Mr. Hanna gladly came, and I am going to ask him now if he will tell us what he has in mind concerning this situation. After he gets through I know that he will be willing to answer any questions that you gentlemen may ask.

With your consent, we will hear Mr. Hanna now.

Mr. D. B. HANNA (Former General Manager, Canadian Northern Railway, and former Chairman of the Canadian National Railway Board): Mr. Chairman and gentlemen, I am here this morning at the request of your chairman, Mr. Graham. When he was referring to me and my long and successful experience of railroading he did not say that he was the man that moved me out of the railway sphere.

The CHAIRMAN: You are wrong there. I can assure you, gentlemen, the rest of Mr. Hanna's evidence is more substantial than that.

Mr. HANNA: Ten years ago last October Mr. Graham and the late Graham Bell came up to Toronto early in October and said "Now we are ready to take over the road." I know Mr. Graham was not responsible, but he was the man who was charged with having me retired whether I desired it or not.

This is not the first time that I have appeared before a railway committee. I am sitting in practically the same position today that I sat in in 1925 when the late Senator Ross was chairman of a committee of the Senate; and my good friend Senator Dandurand was sitting at my left. There were no reporters on that occasion; it was one of those family gatherings. I know there were not as many members of the Senate sitting around the table as there are now. I can remember very well that when I was invited to come down I refused. I said, in what I thought was a courteous letter, that inasmuch as I had not been identified with the railway since 1922 anything I might have to say in 1925 might be regarded as prejudiced, and for that reason I asked to be excused. The following day or the day afterwards I got a peremptory order to appear before the committee, and having a fear of the Tower before me, I came down.

I can remember very well that whilst they were discussing the railway situation there was not a thing on the table anywhere to indicate what the subject was. I came down with a few facts, and I can remember, and you will probably remember with me, that I pointed out to the committee at that time that after looking at the reports up to the date that was concerned, it was apparent that there were mounting costs in capital, and mounting costs in operating, and that it was very desirable that the Government should keep their eyes more closely on expenditures. We discussed that backwards and forwards, and, as I say, no stenographic report was made of the proceedings. But the aftermath was this. Some months afterwards, being in Montreal, I was talking to a friend of mine, and he said that one of the chief executive officers of the Canadian National had made the remark that Hanna and his criticisms could go to hell; that he always was a piker in capital and operating expenditures, and didn't understand that great cost question, that you have to spend money in a big way to get back returns. There you are. What have you got to-day, ten years afterwards?

Another question that I should like to speak of is this. When Mr. Kennedy was appointed Minister of Railways, early in January, 1922, he invited me to come to Ottawa to see him. The first time I came down he was suffering from his trouble, and asked to be excused, through his deputy, and I came back the day following. At that time I brought with me a number of press clippings, including a number of speeches that he himself had made, in which he had passed very strong strictures against myself as an inefficient man, and expressing a desire to get rid of me. I had those press clippings with me, prepared to read some of them before I discussed railway business, because if that was his view, I was through. But this is what he said: "You know, when members of parliament are in opposition they are inclined to say things and do things that they would not say or do if they knew the real facts. I am in that position. If you will be kind enough to forget anything I have ever said, and to help me on this job, I will very much appreciate it." I said: "That is very nice, because I have here a number of your press clippings, in case you have forgotten what you said; but I will not read them, and I shall be very glad to do whatever I possibly can, because if there is one man more than another who is definitely interested"—I was the first officer of the Canadian Northern, and was later appointed an officer of the Canadian National—"I am that man. I will tell you what I will do. I will prepare for you a summary of all the work we have done for the past three years; I will prepare a summary of all the business we

have been doing for the past three years, and will show you where the money came from and where it was spent. I will also have prepared for you a report by every active individual officer in every department of the railway company." At that time we had as vice-president in charge of finance, Mr. Mitchell, who prepared a very exhaustive report; we had Mr. Hungerford, who was in charge of operation, and who prepared a most exhaustive report telling where all the money had been spent. Mr. Hays, the traffic officer, also prepared a complete report of his work; Mr. Vaughan, who was vice-president in charge of purchasing, prepared a similar statement showing how the purchasing was carried on. A report was prepared also by the legal department and the dining department, and last, but not least, there was a report from the late Mr. M. H. McLeod, as to the construction work that had been left in abeyance all during the War. A little had been carried out with the approval of the Government, between 1918 and 1921.

All these reports were gathered together into a book, and what I am trying to tell you is that that book is in the Department of Railways. My own report as chairman and president fully sets out a summary of all that the others had been doing—sets out just exactly our services for that period of time. That book is in existence, or it ought to be, because it is a record that should not be lost sight of. I have a copy myself, but I didn't bring it with me because I assumed that it would be here to-day. I do not see it.

I assume further that if that book had been read at that time there never would have been the disaster that you have to-day. That is the point I make. Our policy was one of rigid economy, but I had to spend money, and it was a marvel to me that the Government at that time, faced as they were in other things, gave us the money that we actually required to put the road in such shape as would enable us to run trains over it from one end of the system to the other.

Our policy was always one of rigid economy. The very men who are operating the system to-day for the Canadian National are the men who were trained in that school, and if you just leave them alone they will have something to say. You can see in the recent returns that economies are becoming very effective. But the statement I prepared at that time was the foundation of what I believed should be the policy of the Canadian National Railway. If that had been done which was not done, things would have been different.

Now then, what happened. The board of directors of the Company at that time—and I should like to name them—were outstanding men, men that were so well known, men that stood high in the financial and the industrial life of this country, men who recognized it as a duty to serve at such a critical time. Those directors were the late Mr. Robert Hobson, at that time President of the Steel Company of Canada; Mr. F. P. Jones, at that time President of the Canada Cement Company; Sir Hormisdas Laporte, a well known ex-mayor of the city of Montreal, a man doing business in a big way, and to-day President of the Provincial Bank—three men from Montreal; in Toronto, Mr. E. R. Wood, a great financier and well known from the Atlantic to the Pacific; Mr. R. T. Riley, and many of you who have lived in Western Canada will endorse what I say, that he was one of the very few who knew practically everything that was worthwhile knowing of Western Canada affairs; Mr. C. F. Hamilton, who came from Weyburn, in Saskatchewan, was the other member; coming down to New Brunswick, we had Dr. Barnhill, K.C., a man who was well known and identified with a number of big industries in that province; and last, but not least, Col. Cantley, of New Glasgow, who at that time was Chairman of the Nova Scotia Steel and Coal Company; including myself and Mr. Mitchell, these gentlemen comprised the first Board of the Canadian National Railway.

Right Hon. Mr. MEIGHEN: Was not Mr. Ruel a member?

Mr. HANNA: Mr. Ruel was not on the Board. A little later an election developed, and promptly I got the resignations of Col. Cantley and Mr. Hamilton. They were in the political game and we would not have anything of that sort, and they knew it. The Board would not stand for it.

So we carried on with the work until, as I say, 1922. In 1922—and I come back to Mr. Kennedy again,—after preparing these reports for him, for which he thanked me very sincerely, he said he would look them over. I hope he did. He died shortly afterward. But I knew even then that so far as I was concerned my useful life had run its day. At the same time, there is not anyone in Canada who has a higher regard for the railway situation than I have. I was the first officer, going back in the early days of the Canadian Northern first hundred miles of road, I was the first officer to turn the first wheel, and I was the last one to leave the Canadian Northern to join the Canadian National when the Government took the road, and with my four years' experience as president I feel I am in a position to speak with some authority in regard to the railway situation. I say that without being egotistical.

Now we are down to 1922. What have we to say then? Every idea that we had incorporated in that report was killed. There was no such thing as economy. "Spend money in a big way and you will get big returns." Well, you spent the money, but have you got any returns? I can point out to you in this statement things that I myself would not have been inclined to discuss here, even in this committee, but I suppose I can go a long way without being sent to the tower.

The CHAIRMAN: We have not any tower now.

Mr. HANNA: You have not?

The CHAIRMAN: Not on our side.

Mr. HANNA: I did not know that. In 1922 criticism began about the condition of the Canadian National, of its being composed of, if you please, of a series of junk lines, that they required a superman to gather these things together and co-ordinate them into a complete organization. As a matter of fact all that is tomfoolery, because the Canadian Northern, the Grand Trunk Pacific, the Transcontinental and the Intercolonial were all incorporated by us and for three years were carried on as a complete organization—complete, I say, in every respect, born of the instructions from the Board for economy. That was the pass word—economize, don't spend any more than you can help.

The CHAIRMAN: It did not include the Grand Trunk?

Mr. HANNA: Not at that time; that did not come in until 1919. It was not the Canadian National at that time properly; we were only Canadian National for service purposes. The Grand Trunk came in later. I can say now that when the arbitration proceedings were started immediately we were put in touch with the Grand Trunk and we co-ordinated offices with theirs. In other words, we closed ours and made use of the Grand Trunk, all with the idea of economizing, which we did.

As a matter of fact this railway debacle does not begin back in 1922, not by any means. It goes back to 1902, and those of you who remember the circumstances—I do not know how many of you are old enough to do that—

Some Hon. MEMBERS: Hear, hear.

Mr. HANNA: There are some old boys here, I can see that. In 1902 the Grand Trunk wanted to get into Western Canada. They did not want to build anything east of Winnipeg. Therefore their request to the Government was: Guarantee our interests west from Winnipeg, and we will use the Grand Trunk Western—or as it was then known, the Chicago and Great Western section of the Grand Trunk—we will use the Grand Trunk to Chicago, we will make an agreement for running rights with the roads out of Chicago to St.

Paul, and then from St. Paul to Winnipeg, where we will tie on to our own road. The Government naturally said: That does not interest us at all. We will not stand for that. Then the Grand Trunk said in a further communication: We will build from North Bay. That did not suit the Government. The Government said: No, if we are going to have a line at all we must have a transcontinental line. So they finally decided to build from Moncton to Winnipeg, eighteen hundred miles that had got the skimpiest kind of recognizances with very little knowledge as to what was in that northern country. We knew that. When I say we, I mean the old Canadian Northern, because at one time the Mackenzie-Mann group, which meant the Canadian Northern, had more knowledge of good land in Western Canada, north of the Canadian Pacific, than any other outfit in this Dominion, then or now. We knew what was going to happen. But they insisted on building to Moncton, and that line was built, 1,800 miles, at a cost of \$60,000,000. And the only business they had in sight when they started to operate was the shipping of Christmas trees to the New York market.

To make things worse, the Grand Trunk Pacific came into the game. I am not blaming anyone, I am just telling the story and you can lay the blame where you please. The Grand Trunk Pacific, starting from Winnipeg, ran practically as a double track to the Canadian Northern that had been there for many years, as far as Portage La Prairie, and then for 125 miles or so west it was never out of the sight of the Canadian Pacific or the Canadian Northern. In other words, for 200 miles they did not develop one single foot of property. All that they did is what has been done in recent years: they simply tried to steal traffic from other roads.

Now, dealing with the Transcontinental, I want to say—and I say it with a full knowledge of the facts—we came here to Ottawa and we said to the Government: "Don't build that line at all. We are on the way to Port Arthur, we have our lines built from Port Arthur west. Join up with us. If the Grand Trunk wants to come in, let us make it a joint contract from North Bay to Winnipeg; let us get away from needless construction." And the answer was that they were going into a territory of their own. And they are in it to-day. I would like to know just exactly what it has cost the Canadian National Railways—which means the Government—since that line was built, in loss of interest on the investment, plus the very substantial loss in operation of the business.

As I say, we built our line, and I make this positive statement, that there is no line in Western Canada that was ever built in recent years at a lower cost per mile than the Canadian Northern. Why was that? Because we were all on the job. Salaries were a very small item in our operations. The expenses were negligible. I venture to make the statement here that my expenses for twenty years on the Canadian Northern did not amount to as much as the figure I have seen in this book for a single year's expenses. And the same was true of others. Sir William Mackenzie, Sir Donald Mann, never drew a five cent piece out of the Canadian Northern. They equipped and paid for their own cars, as well as for the maintenance of them, and they travelled in them and it never cost the railway a cent for the services which they were rendering as president and vice-president of that great company.

Some day someone is going to write a history of this great country, and I think it ought to be an eye-opener. I wish I had the talent to do it. One of the first things I would say to anyone who is writing such a history is this: Don't ever remove from the balance sheet of the Canadian National Railways that huge sum that stands as the Government debt. Let that stand out like a sore thumb, as a warning to governments against getting into the same kind of operations.

We have been accused of entering into other territory and stealing traffic that belonged to somebody else, and I think that applies to some extent to our good friend the Canadian Pacific. My connection with the Canadian Pacific dates back to 1882, fifty years ago, when I came out from the Old Country and was a clerk with the Grand Trunk. At that time the Canadian Pacific was getting into its stride in railway construction in the East, as well as the West. It was my duty then to make weekly settlements with the Canadian Pacific. The settlements had to be made weekly, because neither road was financially strong and we had to be careful not to allow a balance to get too big. But the point I want to make is that our relations were always friendly. When I went West in 1886 and became auditor—well, auditor was one of the jobs I had, but I did all the jobs that nobody else would take, from the master mechanic up to W. R. Baker, who was then general manager—my relations with the Canadian Pacific were again most friendly; I never had any trouble with them, in any shape, manner or form. We had our disagreements, particularly with the Winnipeg section of the road. I did not at that time come in contact with those at headquarters in Montreal. Later when I became the first active officer of the Canadian Northern Railway, better known for the first 125 miles as the late Manitoba Railway and Canal Company, again I came into touch with the Canadian Pacific. I see a C.P.R. man here now, and he will agree with me that there was no time when I was not on the best of terms with that company. Of course, we had our own views that we tried to advance, but life is made up of compromise, and we carried on in a friendly way. That went on for a number of years, right down to 1922.

But there were some things that happened even with the Canadian Pacific, and I think they ought to be known. We have been accused, gentlemen, of getting into the territory of other people and of duplicating service. I deny the charge absolutely. On the other hand I can tell you that when the Canadian Northern Ontario was building its line from Toronto to Parry Sound and on to Sudbury, the Canadian Pacific conceived the idea of getting a line to Sudbury. Mr. Mackenzie, as he then was, talked the matter over with Lord Shaughnessy, and he said, "Now, don't build that line of yours. We have already built as far as Parry Sound and we are continuing on to Sudbury. Join up with us and this road will do for both of us for many years to come." Then was developed what has become a historic fact in my mind. Sir Thomas said: "I will see the hides of you and Mann on the fence before I get through with you." That was the answer that we got.

Again, when they decided to build that cut-off from Tay Junction down through Cobourg and Brighton, and come right in to our tracks at Belleville, we said: "For God's sake, don't do that. Here is a line that we have built; it is up to your standards." It was our through line to Ottawa, and we never did take a second place in the building of that line. It was butchered later, of course, when the Grand Trunk came into it. We said, "Come into it with us at Belleville." They said: "No, we must have our own line." I am not charging this to Mr. Beatty; but there was an underlying antagonism, and it was not possible to come to any kind of arrangement at all. That was the position.

Now, when they talk about junk lines, here is a certificate, an unsolicited certificate, because I may tell you that I have only met Sir Henry Thornton three times in the ten years. First he called on me in my office—my modest office in the Dominion Bank, a single room with a rug on the floor, and nothing like what they have in Montreal—he called on me with two of his officers, and stayed about five minutes. That was his first visit. The next time I met him was in Winnipeg at a luncheon given by the Canadian Club—what they call a weekly luncheon for distinguished visitors in the city. I happened to be one of the distinguished visitors, and met another one there, Sir Henry Thornton. Of course, I sat well below the salt, and the other gentlemen sat there too,

but he was well above the salt. The third time I met him was at Government House in Toronto, where for the first time I met the present Lady Thornton. Those are the only three occasions on which I ever met the gentleman. I do not know whether his sense of humour is developed to any extent; I think there are other things he has developed in a big way, but which I shall not discuss.

I want to read this report of the Canadian National Railways for 1922. Remember that our organization was operating up to that morning when you, Mr. Chairman, said "Now we are through with you."

The CHAIRMAN: It was a nice morning.

Mr. HANNA: A beautiful morning, calm and peaceful. This report is a report of our proceedings up to October 1922. The Annual Report did not come out until some time later, likely some time in March, in time for the session. Here is what it says:—

On behalf of the Board, I would like to state that after inspection of the main arteries of the System, we find that the work undertaken has been well performed, and that the expenditures have been well applied. While the demands for capital expenditure on a System of such extent in a growing country, as the former Board stated, are never ending, yet it may now be said that the three groups of lines, until recently the Canadian National Railways, enter the consolidation in excellent physical condition and operating at a high mark of efficiency as regards actual performance or movement of traffic and other factors controllable by management. Apart from certain well known cases of duplication the lines are well located and in exceptional position to successfully perform the transportation demands of the country. The problem as far as the lines covered by the report is concerned, is how sufficient traffic may be developed to carry the overhead and maintenance expenses. As far as transportation costs go, an economical performance is being made. Under these circumstances the margin for improvement with the present light volume of traffic is largely dependent on circumstances beyond the control of the management.

I did not ask for that, because I had within my own heart the knowledge that we had done good service.

I see my friend Jim Murdock down there. His organizations are responsible as much as anything for the big deficits that we made during those three years. You have all heard of the McAdoo Award; you have all heard of the Chicago Award. You probably have heard about I don't know how many supplements to the McAdoo Award, and I don't know how many circulars were issued when the United States Government had control. All I know is that I did not need any director of economies to tell me that they were using up our pulpwood at the rate of about an acre a day for the issue of those circulars. What did it cost that Government? \$1,200,000,000. The railways went to rack and ruin, and it cost them to operate these roads with the number of men they employed, \$1,200,000,000; and when the roads were taken back by the railway companies what happened? The Pennsylvania, that great company which had been paying dividends since 1850 or something like that had to cut its dividends, and it showed a loss on operation the next year of \$23,000,000.

Those were the times when we were carrying on this development work. We had to do the work; we had to get the trains going. In three and a half years we put on the tracks of the Canadian National Railways 26,000,000 ties, and every one of those ties cost sixty-one cents, and most of them cost eighty-three cents on the track where they were delivered.

I am glad of this opportunity, Mr. Chairman. I have waited for it for ten years. The McAdoo Award cost the Canadian National Railways in increased wages \$38,082,000.

Hon. Mr. GRIESBACH: Over what period?

Mr. HANNA: For the period under our administration. Remember the iniquity of the Award. I say this with all due respect to Jim.

Hon. Mr. MURDOCK: You have not got going yet. Go on.

Mr. HANNA: I have not got through yet. Anyhow, we set up the figures for the benefit of Mr. Kennedy, and it is part of the complete history of the road. The McAdoo Award came in 1918, if I remember correctly, and because it was retroactive for five months, it cost us \$8,678,200, in 1917; and the supplements cost us \$13,013 000. Then when the Chicago award came on later it added another \$16,390 000 to our payroll; in other words, the difference between the 1907 payroll of \$43,000,000 became \$81,347,000 in 1921.

Hon. Mr. CALDER: That was for one year?

Mr. HANNA: No, three years.

Hon. Mr. CALDER: Four years?

Mr. HANNA: No, not the full four years. We were at a stale mate for 1922. That is at the time our resignations were in early in January, and Mr. Graham removed me, and you will remember—this is a side light—you came up in June. I said what? I said to you, "No." You said, "For God's sake don't leave us now."

The CHAIRMAN: You were not pressing your resignation too hard at that time. I got you to hang on.

Mr. HANNA: But the resignation was in your hands and I said in that letter to Mr. Kennedy: "It is my understanding, Mr. Kennedy, that in the frame-up in the new organization there is no place either for me or for Mr. Mitchell." He was very much annoyed about it, senator.

On top of these wages we put in about twenty-six million dollars worth of ties. I mean that is what they cost us. We had to move the ties at Jim's wages. As a matter of fact by the time we got them in the tracks they cost us over a dollar a tie. In those three years it cost us \$26,000,000 to revamp what? Not the Canadian Northern, but to revamp the Transcontinental, the Intercolonial and the Grand Trunk Pacific—all these roads that were built with so much money, and they said the Canadian Northern was "junk" alongside of them. That is what happened.

What about material? And we buy a great many other things besides ties. Our coal cost before the war was \$3.16 a ton; it grew by degrees until in 1920 it rose to \$6.85 a ton. That is what it cost us to put a ton of coal on a locomotive. To-day I think you can put a ton of coal on a locomotive at about \$3 a ton. In 1921—I am still on that process of betterment—it cost us \$6.10 per ton.

I went back to the Government's own records for the rising cost of material. As I say, we buy millions of dollars worth of other material. In 1913, the year before the War, taking the average at 100, in 1914 it rose to 102.3 in 1915 to 109.9, in 1916 to 131.6, in 1917 to 178.5, and when we started in the game in 1918, 199, in 1919, 209.2, in 1920, 243.5.

Hon. Mr. DANDURAND: What do you mean when you say when you started in the game?

Mr. HANNA: I mean that in 1913 you had to spend \$2.43 to get one dollars worth; there was an increase of \$1.43 on the dollar between 1913 and 1920.

Hon. Mr. CALDER: That is the average for all your materials?

Mr. HANNA: That is the data I took from your Government's own returns; if it is wrong I am not assuming responsibility. As I say, I have taken it from the Government's returns, in the Year Book which is supposed to be immaculate in its rectitude in every way.

In 1921 it dropped to 171; in 1922 to 153·2, and after that, having been removed, I was through.

Those are the conditions we had to face during our years of administration. That is the reason why we show such serious losses in operation. But, remember, the Canadian Northern practically pulled even; these losses all came from the Grand Trunk Pacific, the Transcontinental and Intercolonial. In one year the Intercolonial losses were—

Hon. Mr. STANFIELD: How about the Halifax Southwestern and the Inverness roads?

Mr. HANNA: I am speaking of the Intercolonial.

Hon. Mr. STANFIELD: Don't blame all on the Intercolonial.

Mr. HANNA: We bought the Halifax Southwestern. That leads back to the memory of our old friends Mr. Murray and Mr. Fielding. You had better not go into that. If you want to, give me a little time and I will tell you about it; not only about that, but other things about the East. There is no man living to-day who knows more of those things than I do, and they will die with me. I do not want to bring them in now. For ten years I have sat idly by and listened to statesmen, near statesmen, politicians and others in their slanging efforts against the Canadian Northern Railway.

Nothing happened to bring the Canadian National into existence in a big way until Sir Henry Thornton came here. I am going to tell you about that and then I will be through. There are some things in this book that were startlers even to me, with the close watch I was exercising over operations.

One of the last things that Mr. Mitchell did was to prepare for the late Mr. Fielding a summary of all the investments and all the securities that were outstanding in connection with either the Canadian Northern or its various subsidiaries. Mr. Fielding expressed very great appreciation for that statement. The main statement is incorporated in this great big book. It is about twenty-four inches long and six inches thick, the book that I left with Mr. Kennedy. It cannot be lost—unless they burned it. It must be in the railway office. I say if it had been read and digested things would have been different to-day. I should like to see it. In this book what do you think? They spent three hundred and sixty thousand odd dollars to bring a man from New York to tell the Board something about the Canadian National issues; \$360,000 for information that they had right in their office as far as we could give it up to 1920-21. Can you beat it? And after having spent that money, what has happened? Has anything been done to the securities? Not a dang—not one bit. The situation is just as it was in 1920-21.

In 1920 I was in Vancouver, and there was an old outstanding trouble with Vancouver city about the building of an hotel—a modest hotel, I think, of two hundred rooms. A contract was made with Mackenzie, Mann and Company in their day. We did not want to build a hotel, because if there is one thing more than another I have a horror of it is hotels. I say that advisedly, because I do not think it is the business of a railway company to own any hotels at all.

Hon. Mr. LYNCH-STAUNTON: Hear, hear.

Mr. HANNA: I do not think it is their business to go into industrials of that kind. They have plenty to do in attending to their own business. I made an agreement with Vancouver that we would do certain work for the city, such as taking down an old building that was in front of the Canadian National station. Anyone who knows Vancouver will remember the old Main Street bridge, and we agreed to take that down, also to fix up the road-bed, and to build a breakwater to keep out False Creek. We made this agreement on the distinct understanding that the hotel business was to be forgotten. The agreement was drawn when I was in the city, and the late J. D. Reid, who was then

the Receiver for the Grand Trunk Pacific, came down from Prince Rupert. The agreement was signed by the mayor and ourselves, and it was ratified at a special meeting of the Council before we left there. Now, what has happened since? I do not know who is responsible for the large expenditure of money that has been made. The Duff report says that the hotel at Vancouver has had spent on it, up to the 31st of December, 1931, \$5,958,812, and that there is a further liability of over \$4,000,000, making the cost of the hotel when completed, and before it is furnished, between \$10,000,000 and \$11,000,000. Right across the street there is a Canadian Pacific hotel, doing all the service necessary for Vancouver.

The old Canadian Northern had two hotels. They were both built by Mackenzie, Mann and Company as part of the agreement made with the town of Port Arthur and the town of Brandon, and we later took them over. The Port Arthur hotel has 150 rooms and the Brandon hotel 100 rooms. The two together cost about a million and a half.

I think you might call this report Duff's Bible on Canadian National Railways. It is one of the most interesting documents and the Commission deserves very great credit for the way they did their work. I am not in accord with some things, but I am in accord with showing the extravagance that has been going on. The doors are locked in that hotel at Saskatoon. They spent a million dollars on that hotel at Minaki, with a golf course. At Jasper Park we spent a little money, on the request of the department, some \$55,168, for a few lodges to house the people who wanted to do some climbing. But there was no golf course. Since then they have spent an additional \$2,521,576 on that hotel. I wonder, Senator Stanfield, if you have heard the story of what happened at Charlottetown, where they spent over \$800,000 on a hotel.

Hon. Mr. STANFIELD: I have heard some stories.

Mr. HANNA: Some of the members of the committee appointed to interview the President of the Canadian National, with a view to getting a modest hotel to house the tourists—they do get some tourists on Prince Edward Island—

Hon. Mr. DANDURAND: Even though it is dry.

Mr. HANNA: Well, they take their refreshments with them. They don't suffer, Senator. They said, "Now, let us ask the Canadian National to build us a modest hotel, to cost about \$250,000. But let us suggest \$350,000, so that if Sir Henry wants to cut us down some we will still have enough to give us the kind of hotel we want." I may say this information comes directly to me through a friend who got it from one of the members of this committee. Sir Henry met them down there and was very much interested in their request. He said: "Well, what do you expect us to spend?" They said "Well, we thought you might spend \$350,000 on a hotel." And he said "Oh, that is nonsense. The Canadian National can't associate itself with a hotel like that. We must spend a great deal more." And he did. The hotel they built there cost \$853,351. It is a nice hotel, so nice that the natives are afraid to go inside the doors.

Then look at Halifax. I suppose I was bombarded a score of times to build a hotel at Halifax, and I said, "The Canadian National will not be a party to any hotel at Halifax under any circumstances." They have two hotels there now, one called the Lord Nelson and the other called the Nova Scotian. Will anyone who comes from the East, or who has ever been in Halifax and knows about the whole area there, tell me that any man in his senses would be responsible for erecting a building at the price of any one of the hotels? What did they cost? I have the figures here. They are not my own figures. The Nova Scotia hotel, built by the Canadian National, cost \$2,440,000. The Canadian Pacific with a desire to help out the situation when

the citizens wanted to build a hotel, subscribed \$300,000, or \$500,000, and when that building was pretty well advanced the other building was started. There is no question about what had to happen: one of those hotels had to be closed.

I may tell you, gentlemen, that I am in a business—not the railway business—which contributes largely to both the Canadian National and the Canadian Pacific in the shape of traffic. Under normal conditions we pay to each of them about \$1,200,000 yearly in freight earnings. That, of course, is not the figure to-day, but it was up to about 1930. Since then the interests with which I am connected, the lumber business and the flour business, are both in the doldrums. Senator Gordon will be able to substantiate that. If he did not have his sessional allowance he would be on the breadline.

The depression has got us into such a state of mind that we cannot seem to see a foot ahead. I have in mind the case of a man from Rosedale, a man up in years, who came down and met a friend of his on King street. The friend said: "What is the idea of the smile this fine morning?" "Well," this man said, "a most extraordinary thing has happened. You see the suit of clothes that I am wearing. I have not had it on for the last eighteen months, and would you believe it, when I put my hand into the trouser pocket I discovered a small roll of bills." Then the other fellow said, "Were they receipted?" That is an illustration of the state of mind that we are getting into.

I am nearing the point where I will have to sit down, but before doing so I should like to say a word about the general railway situation. I am coming back to the point that if the line Board that I mentioned had been left alone to carry on under the policy laid down in 1918, you would not be sitting here to-day under such conditions as you are.

The CHAIRMAN: That might have been a relief.

Mr. HANNA: It might be. I am making the point that there would be no hotels, no steamships. Gentlemen, one of the most tragic things in this whole story is the building of these three beautiful steamships for the Canadian National to carry on a service that was no more needed than a man needs a third leg. The only purpose of building the steamships was to cut into the business of the Canadian Pacific. After trying that for a season and a half the boats were taken off and now they cannot do anything with them. I read that likely they will be sold to one of the French Companies. That is where some of the junk will go. Before those boats could be used the harbour had to be extended. I happened to be in Victoria myself when one of those boats came into the harbour, and it was a picnic to see it being warped into a dock that had to be specially built, and then warped out again.

The C.P.R. had beautiful boats too, but were they good enough for the Canadian National? Not on your life. These three boats cost a great deal of money. The Prince Henry cost \$2,160,000 odd; the Prince David \$2,140,868, and the Prince Robert \$2,193,300.

Hon. Mr. CASGRAIN: What was their tonnage? How much a ton did they cost?

Mr. HANNA: I am not going to quote the tonnage. It does not count, because they are passenger boats. I have seen those boats and have been on them. As a matter of fact, when I was in Bermuda last winter I saw the Prince David lying on the rocks, and I said "Thank God for that; the Government will at least get the insurance out of it." But unfortunately they didn't; they blasted the rocks and made a canal, and drew her off the rocks, and I do not know where she is now. The C.P.R. boats of the same type were the Princess Elizabeth, which cost \$1,128,000; the Princess Joan, \$1,127,000, and the Princess Margaret, \$1,258,000.

Hon. Mr. LYNCH-STANTON: Mr. Hanna, this is tremendously interesting, but would you tell us what you think about this Bill?

Mr. HANNA: I have not read it.

Hon. Mr. LYNCH-STANTON: You ought to read it.

Right Hon. Mr. MEIGHEN: The present measure.

Mr. HANNA: I have not seen it.

Right Hon. Mr. MEIGHEN: You know what is in it.

Mr. HANNA: You mean incorporating this report?

Right Hon. Mr. MEIGHEN: Yes.

Mr. HANNA: You mean as to the operation of it?

Hon. Mr. LYNCH-STANTON: Do you think we should adopt the suggestions made in the Duff report?

Mr. HANNA: Up to a point. I am opposed definitely, first, to any appointment of three trustees. I have in my own mind a trusteeship of five. The Canadian National have had American contacts, and I would like to see a very competent legal gentleman with financial and commercial experience as one of the five; I would like to see a competent financial man on the board; two others I think should be industrialists, men who have been conspicuously successful in their own operations, and who have reached that time in life when they would gladly give their services to the Government or to the country; then in addition to those four I would have a chairman who had some real knowledge of the railway business in this country.

Hon. Mr. CALDER: Have you completed your general statement? I am sure many of the members of the committee wish to ask you questions.

Hon. Mr. LYNCH-STANTON: I want to hear you tell us about the Bill.

Mr. HANNA: I have been talking for a solid hour, which is more than I have ever talked in my life before. One thing I would like to say, however, is that one of the most amazing things to me is the passing of the budget for the Canadian National Railways at Ottawa from year to year. To some extent it was like a mutual admiration society. Sir Henry Thornton could not have been human, like the rest of us; and he could not have been otherwise than impressed by the fact that he was a superman. His budgets were passed with very little criticism. Large amounts—sometimes they represented more than half the debt of Canada before the War—were passed at a single session. I can imagine Sir Henry Thornton—although I do not know him—looking at himself in the mirror after he was through with one of these annual budget comedies; I can imagine him looking at himself in the mirror on his car while going back to Montreal and saying: What is this about me that I am able to get money so easily?

An Hon. SENATOR: He hypnotized them.

Mr. HANNA: I can imagine him saying: What gift have I got that seems to enable me to do all this? I say he has got the gift—I won't express myself further than this, that I do not blame him altogether for the expenditures; I blame the Government of Canada for allowing the expenditures to be made without a proper investigation.

Some Hon. SENATORS: Hear, hear.

Mr. HANNA: I never asked this Government for a five dollar bill in my four years without first preparing a budget, which was cut down and cut down until it would pass our Board; then I came down here and with the Minister of Railway and the Minister of Finance I sat in and discussed the whole situation and got a sort of final figure. They knew what we were going to do with the money, they knew we were not going to spend it on any tomfool things, but were going to spend it on the road for the purpose of getting freight traffic. I was not interested in expenditure on passenger business. Our policy was to get after the freight business. I never thought of running expensive trains. Do you know the cost for a train? For a daily service running between Vancouver and

Montreal, say, starting off each day from each end, to be able to meet any accidents that might happen by the way, they would have to have at least nine, perhaps ten, trains to do that service. I think I am well within the mark when I say that each train of nine cars and a locomotive would not cost less than \$650,000. So with ten trains you would have six and a half million dollars tied up in that single service. My God!—Excuse me. I neither had the money nor the desire to spend money that way. We did run one train to Vancouver, if you please, but we ran it stopping at every station. I said: The C. P. R. want this business. We will never get into competition with them. We will take the freight, because we had—excuse my saying “we”; I mean the old Canadian Northern Pacific, which was part of the Canadian Northern—it has the lowest grade of any railroad in North America. What I mean by that is that there is no American road going through the mountains that compares with the grade of the Canadian Northern Railway through the mountains. That includes the Grand Trunk Pacific that was heralded with brass bands from one end of the Dominion to the other as the lowest grade road. It is not true. The Canadian Northern has the lowest grade road in North America. And what is more, showing the differences between men who understood the building of railways, knew what it meant to do the work from day to day, not getting into dinner jackets at half past six at night and starting off next morning when they were able to, but on the job all the time—that road through the mountains, five hundred miles, taking it by and large cost an average of \$80,000 a mile. The Grand Trunk Pacific, which was only partially equipped, because we spent millions of dollars on the Grand Trunk Pacific when we took it over, and so did Dr. Reid as receiver, cost them slightly in excess of \$120,000 a mile. That is the difference between building railroads without dinner jackets and building them with dinner jackets. That is the answer I make all the way through to the various charges that are made about the Canadian Northern Railway, the nine thousand odd miles that they took from us at \$10,000,000. It cost \$10,800,000, at least that was the judgment of the Arbitration Board, but Sir Thomas White would only pay us \$10,000,000. In that line all our life's work, mine, too, was gone. But we built the road, and it is a credit to this Dominion. It is the mainstay with the Grand Trunk, and if you had swept the Transcontinental out of existence and the Grand Trunk Pacific, that never should have been built, the Canadian Northern with lines in the East and in the West with the Grand Trunk would have been as strong a road as the Canadian Pacific to-day, and we would have had no losses like the five to six hundred million dollars that we have to pay interest on from year to year.

Now, I am not a pessimist. The Lord has given me a reasonable sense of humour, and no one has suffered more personally than I have in regard to investments and that sort of thing, but I have never lost my faith in Canada. We are going through a depression. But since 1882 we have gone through several depressions, I have been through them all and know what it is. We came through them all, but this is a little bit more widespread. But my God!—Excuse me—We have not reached that stage of depression that we cannot see a little daylight ahead of us. That is the reason I am going to make this statement. I do not want the Canadian National Railway to be linked in with anybody else, I want it to be carried forward as a distinct entity in the future as it has been in the past—with this difference, that the organizations that are carrying on the work now and are able to show in the last few months what is being done by reduced expenses and improved earnings that these men, trained, as I said before, in the school of rigid economy, be allowed to work out the destiny of that road. The Government is going to have to pay a good deal of money for some time to come, but if the Canadian National goes to the Canadian Pacific the Government will still have to meet those charges. I do not say a

time may not come when it may be desirable to have a consolidation, but not now. Leave the Canadian National alone, give it a chance to retrace its steps to 1922—1921 to be exact. There are opportunities, and with a return to normal times it is my belief that even with the incubus they have of the Transcontinental and the Grand Trunk Pacific, and while they will never be able to add to the sum total of the net earnings in my lifetime, nor of the Intercolonial, because I think they would not stand for it;—if the Intercolonial ever made any profits on operations they would want to reduce the freight rates at once.

Hon. Mr. STANFIELD: They have made surpluses in the past.

Mr. HANNA: Yes, but they have made losses too that swallowed those surpluses and a great deal more, senator. But that is the point I am making with respect to the Canadian Pacific idea. I say at the present time leave the Canadian National alone. Get your trustees, or whatever you like to call them, five in number, and a good railroad man. I could name you a man, but I won't do it. It would not be myself.

Some Hon. SENATOR: Go on.

Mr. HANNA: I am too old and was worked out ten years ago. And he put me out then (pointing to the Chairman). But I can name a man who would fit in, because of his peculiar capabilities, and there is no earthly reason why the committee you would have would not work in harmony with the Canadian Pacific Railway. I never had a harsh word with Mr. Beatty in all the years I have known him, nor with the late Lord Shaughnessy. There is no earthly reason why the two roads should not get on in harmony, if the hotels, steamships and services of that kind are not added to.

But I don't like consolidation. I cannot make myself believe that it is in the interests of this great country that we should be under the control of one single railway. Now, I am not saying that on account of the position that the Canadian Pacific Railway would be in; what I have said applies to any railway. If there had to be a consolidation, I do not know of anyone whom I would rather have it working under than Mr. E. W. Beatty. There is no man that I have a higher regard for. He is the first Canadian president of that great company. But I do say that the Canadian National, with proper administration—and it can be properly administered, as it was at one time—can be made very much more successful than it is to-day, with the return of normal times.

Right Hon. Mr. MEIGHEN: What do you think of the recommendation to have an arbitral tribunal?

Hon. Mr. DANDURAND: Which would force co-operation?

Mr. HANNA: Since the Railway Board was appointed, and that goes back about thirty years, we have had to go before them with our troubles that we could not settle between ourselves. The Board would take the whole dispute into consideration, hear evidence and give a judgment, and we had to stand by it. If a Canadian National committee, such as I have suggested, were appointed, and if the Canadian Pacific had a similar committee, is there any reason why they could not get together and agree on wiping out some services, stations and other things?

Hon. Mr. DANDURAND: And agree on the abandonment of lines?

Mr. HANNA: Yes, and on the co-ordination of terminal facilities. Take the city of Toronto, for example. I venture to say there are 150 industries in Toronto to-day that have railway connection with both companies. A shipper will telephone down to one railway, say the Canadian National, and ask for a couple of cars to be loaded for Edmonton, let us say. Later on he will telephone the Canadian Pacific and ask for three cars to be sent to Regina, or some other point. That is five cars going from the same industry. Now, how many men does it take for each train, Senator Murdock?

Hon. Mr. MURDOCK: Five.

Mr. HANNA: Exactly, five men. But the five men on the first train could do all the work that was necessary in the instance that I have given. There are enormous expenditures that could be saved by doing away with duplication. I would not do that now, because you cannot afford to turn men out on the street and have them in the bread line. But later on, when times improve, that saving can be made through duplication. Don't let us run away with the view that things are not going to get any better. By the help of the Lord and our own smartness, things will get better.

Hon. Mr. L'ESPERANCE: But the trouble is that when things get better you won't be able to economize.

Mr. HANNA: I do not agree with that view. If this Canadian National committee, such as I have suggested, is appointed, and if there is a similar group to represent the Canadian Pacific, these two committees by working properly will be able to reduce enormously the expenses in connection with operation. I object to this Government surrendering over a billion and a half of securities and having their hands tied as to the administration of the Canadian National.

Hon. Mr. BALLANTYNE: I do not think you answered the question of Senator Meighen as to what you thought about the proposal for an arbitral tribunal.

Mr. HANNA: I want the Railway Board; I want the whole Railway Board, instead of the Chairman.

Hon. Mr. LYNCH-STAXTON: When there are matters in dispute about which the railways cannot agree, you think that the parties should go to the Railway Board and nobody else?

Mr. HANNA: Where they have gone in the past.

Hon. Mr. CASGRAIN: With reference to those 26,000,000 ties that you referred to, how many miles of road would they cover?

Mr. HANNA: I cannot tell you, offhand.

Hon. Mr. CASGRAIN: About 10,000 miles.

Mr. HANNA: More than that.

The CHAIRMAN: We have had a very complete historical statement from Mr. Hanna and I am glad that he has given it to us. I would suggest that if any honourable members have questions to ask Mr. Hanna, they do so now.

Hon. Mr. MACARTHUR: I believe I am the only representative from Prince Edward Island on this committee, and I think the remarks Mr. Hanna made with regard to the situation in Charlottetown need a little explanation. I suppose very few honourable members are seized with the facts connected with the building of the hotel by the Canadian National down there. Some years ago we had a very good hotel, the Victoria, but it was an old ramshackle building that was very well appointed at the time it was built and was improved from time to time, but was really inadequate to meet the existing demands. It was burned to the ground and there was a genuine need for a modern hotel. I may say that a few years ago there were some railway shops in Charlottetown but they were closed up and the employment of labour was transferred to Moncton. The railway men of Charlottetown felt they had quite a grievance, but the Canadian National never would do very much for Prince Edward Island. I am not going to question the figures that have been mentioned, the \$300,000 and \$800,000, but I will venture to say this, that the Charlottetown Hotel is practically self-sustaining, or at least it is making a better showing than any other hotel in the system. Mr. Hanna libelled the natives of Prince Edward Island. I am a native of that province, and I have spent a lot of money

in the Charlottetown Hotel, as have many of my friends. There is an annual exhibition held down there that lasts nearly a week, and it attracts visitors from every province, as well as large numbers from the Island itself. From time to time we have prominent people there. For instance, a short while ago the Hon. Mr. Weir, the Minister of Agriculture, paid us a visit and we tendered him a banquet. A few weeks ago the Canadian Chamber of Commerce met there. The Charlottetown is the only hotel in the city that is really up to date and we simply could not get along without it.

The tourist business is increasing, and has been quite a factor in reducing the overhead. The hotel is run economically, and it is increasing its patronage year after year. I do not think it will be regarded as a sink-hole, even though we may be agreed on the general principle that railways should not go into the hotel business. If all the other hotels were doing as well as this one, we would not be very much embarrassed to-day.

The CHAIRMAN: Have you gentlemen any questions to ask Mr. Hanna? If so would you confine them to present and future needs.

Hon. Mr. DANDURAND: The object of the Bill before us is to obtain economies by co-operation.

Mr. HANNA: But, senator, there will have to be either very drastic economies within themselves that would not affect the other company at all—

Hon. Mr. LYNCH-STAUTON: This means mutual economies.

Mr. HANNA: Oh, yes.

Hon. Mr. DANDURAND: Here is the field where these companies are to try to get together and effect economies—you will find it on page 7, clause 16 of the Bill:—

Without restricting the generality of the foregoing, any such measures, plans or arrangements may include and be effected by means of—

- (a) new companies controlled by stock ownership, equitably apportioned between the companies;
- (b) leases, entrusting agreements, or licences, or agreements for the pooling and division of earnings arising from the joint operation of any part or parts of freight or passenger traffic, or express, telegraph, or other operating activities or services;
- (c) joint trackage, running rights, joint ownership, or joint operating agreements, depending upon the nature of the property or services included in any co-operative plan; and
- (d) joint or individual highway services, or highway and railway services combined, in any form.

They must try in that field, and, generally speaking, in other activities, to come together and effect economies by applying—

Mr. HANNA: By agreement.

Hon. Mr. DANDURAND: By agreement. And if one of the companies feels that some economy should be effected which the other company does not assent to, the arbitral tribunal shall decide.

Mr. HANNA: I am opposed to that. I say the Railway Board is constituted for that very thing.

Hon. Mr. LYNCH-STAUTON: Can you give a specific reason?

Mr. HANNA: Because this organization has been in existence, and it is set up.

Hon. Mr. LYNCH-STAUTON: What reason is there against it? What objection would you have to it, as a railwayman?

Mr. HANNA: Because I would not have my disputes settled by a single person.

Hon. Mr. LYNCH-STAUTON: The chairman of the Railway Board settles everything.

Mr. HANNA: Oh, no.

Hon. Mr. DANDURAND: It has been urged that you cannot have co-operation and competition at the same time.

Mr. HANNA: That is one point that I overlooked. Do you know—the C.P.R. will check me up if I am wrong; I am speaking from old figures—do you know that the Canadian National originates with its own lines nearly seventy per cent of the freight traffic it carries. I venture to say the Canadian Pacific are not very much behind that.

Hon. Mr. DANDURAND: During our investigation in 1925 it was stated that eighty-five per cent of the traffic was tributary to one line or the other.

Mr. HANNA: I am speaking of the Canadian National as distinct from the C.P.R.

Hon. Mr. DANDURAND: Eighty-five per cent belongs to one company or the other.

Mr. HANNA: Do you mean it was originated on its own lines?

Hon. Mr. DANDURAND: Yes.

Mr. HANNA: Well, I put it at seventy-five per cent. Look at the operating statements for the amount of money spent by the Canadian National Railways. I am not here to criticize the Canadian Pacific Railway. It can spend what it pleases. But look at the expenses of the Canadian National for trying to secure a percentage of the business that goes to make up the fifteen per cent. Fancy the money that is paid in New York, and for what purpose?

Hon. Mr. DANDURAND: Fighting for the fifteen per cent.

Mr. HANNA: Fancy the money that is paid out in Chicago for the same purpose, in San Francisco and in the Old Land.

Hon. Mr. DANDURAND: And in Montreal and Toronto.

Mr. HANNA: I am coming to that. One of the first things we did when we got the Grand Trunk Pacific, and with the accord of the Grand Trunk, was to cut down the expenses of the Old Country office by \$20,000; and I am darned if that money wasn't all set back again within two years after we were out of office. To my mind there is no need for the expenditure that has been made in the past, and you will find that up to 1922 we didn't spend the money. I didn't need a bureau of economics to tell me what we ought to do. By the time they had brought out charts and everything else I had the notice out and the men moved. I knew what was going on; it was my business.

Take those expensive offices like in my own city of Toronto—the Canadian Pacific here and the Canadian National there. There is no reason in the world why both offices should not be closed; I see no necessity for them. I would apply the same to Montreal, and everywhere else. But there they are.

And let me tell you about the Canadian National building. That building was offered to us in 1921 at \$800,000. The Canadian National ticket office is in that building now, at the corner of King and Yonge streets, one of the most expensive corners in the city of Toronto.

Hon. Mr. LYNCH-STAUTON: The most expensive.

Mr. HANNA: The most expensive. We were offered that building for \$800,000, and I said "Not a cent; we don't need it." We had a building a block and a half east of that; and yet it was bought twelve months afterwards and \$1,250,000 was paid for it. What have they got in it? They have got a staff

sitting in the most expensive piece of property in Toronto to-day, a staff of men who ought to be down at the Union Station, and if not there certainly they ought to be in their own building a block and a half east. It would serve just the same purpose to the general public.

Hon. Mr. LYNCH-STAUNTON: Mr. Hanna, do you think that corner is worth half of that money?

Mr. HANNA: I do not know, I am not offering any advice as to values.

Hon. Mr. DANDURAND: Have you read Mr. Ruel's statement before the committee?

Mr. HANNA: Yes. I do not agree with it either and I do not want even to discuss it.

Hon. Mr. DANDURAND: The question I put to you is this: Under the competitive system which will be retained under this Bill, do you think there is a possibility of bringing those two roads into co-operation except by force in order to eliminate that waste in ticket, telegraph, express and cartage offices?

An Hon. SENATOR: And duplication of trains?

Hon. Mr. DANDURAND: Do you think that elimination of expenses, of waste, can be brought about without forced co-operation?

Mr. HANNA: I do not think, Senator Dandurand, there need be any force at all. I think there are a great many offices that the Canadian Pacific and the Canadian National could very well afford to close, and I think they will do it without very much compulsion. That is the view I have.

Hon. Mr. LYNCH-STAUNTON: Mr. Hanna, do you think if the Canadian National closed all those supplementary offices they would lose any money at all?

Mr. HANNA: They would lose earnings, but they would save all those expenses.

Hon. Mr. LYNCH-STAUNTON: At the end of the year would they be out any?

Mr. HANNA: Not if the C.P.R. were doing the same.

Hon. Mr. DANDURAND: But do you think that will be done without forced co-operation?

Mr. HANNA: Do you mean to tell me, senator, that the Canadian Pacific are not alive to their opportunities, that if the other company is willing to close that they will not do so too? I have a higher regard for Mr. Beatty's intelligence than to suppose he is going to carry on alone offices that the other fellows have closed up. I think, gentlemen, we are attaching too serious importance to this question of the closing and joining up of offices, the closing of stations and the cutting down of train services. The force that you have got to meet is not the two roads, it is the public. The public will be demanding something. There is not any question that the Canadian Pacific are in the frame of mind—I am sure I could speak for them—they are in the frame of mind, just as the Canadian National are, to get away with what might be considered needless expense. There is not any question about acquiring 15 per cent or 20 per cent of freight business, a percentage of which must of necessity come to each of the roads in respect of location of towns free from competition—I mean in the interior—that is bound to come to them from shipments off other roads. The Canadian National, for instance, have got a long string of places where a car occasionally is loaded from a point off their own system. They will get that car. That is competitive business in the sense that arrangements were in existence where the Canadian Pacific could haul a car some distance and hand it over to the Canadian National; but the Canadian National would get the full haul with this elimination of needless competition. I think I am safe in saying that the Canadian Pacific are just as anxious as this committee is to eliminate needless competition.

Hon. Mr. CALDER: Mr. Beatty said so here.

Mr. HANNA: Yes. I think it is just like this depression, we cannot get the idea out of our heads that there are two competitive railroads. Those of you who have read Will Carlton's poem on Betsy and I will recall these lines:

So I have been talking with Betsy and Betsy has been talking with me.
And we have agreed that we can never agree.

That was the attitude of the Canadian Pacific and the Canadian National for ten years; they were at daggers drawn. A new situation has arisen. On the part of the Government there is an instruction to the present Canadian National Organization: You must get together with the Canadian Pacific, and if you cannot agree there is a tribunal that will settle your differences.

Right Hon. Mr. MEIGHEN: But you think where they cannot agree on the terms of some co-ordinate action, where one thinks it should get a larger share than the other thinks it is entitled to, there must be some tribunal to settle the difference?

Mr. HANNA: Absolutely.

Hon. Mr. LYNCH-STANTON: From what you say, Mr. Hanna, I take it you think very few differences will arise?

Mr. HANNA: I think we are worrying ourselves about a lot of things that won't arise. There may be cases here and there, but you will find those are brought about by public pressure, not by the refusal on the part of the two roads to do something. I think you will find the public may intervene in some district and say: You cannot take this train off because we go to the market once every two weeks, and we have not got a motor car, so what are we going to do. There are many branches that might be closed up particularly in Western Canada, they might be closed up as tight as a fiddle after the elevator men have moved away. Close them right up and let the people make up their minds that they have got to use their motor cars.

The CHAIRMAN: Does any other member desire to ask Mr. Hanna some questions?

Hon. Mr. CALDER: Mr. Hanna, this committee must eventually decide on one of three propositions, unless some further propositions are put before us. I am going to state these three propositions briefly in order that I may get your judgment as to what this committee should do. The first proposition is contained in the Bill. The Bill requires that the two companies should co-operate, as Senator Dandurand has pointed out, with a view to effecting economies to the greatest possible extent along the lines indicated. For the time being we will set aside the economies that the companies themselves individually may bring about within their own services. The Bill directs that these two companies shall get together for the purpose of securing those economies. Mr. Beatty has said: I am ready to go on. The Government has said to the Canadian National Railway Officials: We want you to go on. The Bill further directs that if during that process of co-operation the two companies cannot agree, then they must submit their disputes to an arbitral board, whose decision shall be final.

Now, as I understand you so far, Mr. Hanna, you are quite in favour of the Bill in regard to the direction to co-operate?

Mr. HANNA: Quite.

Hon. Mr. CALDER: You feel that the companies are in the mood to co-operate and that there is the possibility of effecting great economies under that section of the Bill. But from what you have intimated apparently you do not agree with the setting up of an arbitral board, constituted practically of one man. The man whom we all have in sight is the Chairman of the Board of Railway Commissioners. You think that the arbitral board should be the Board

of Railway Commissioners, that they have had long experience, are fully equipped, have all their precedents behind them, and all that sort of thing, and you would leave the settlement of all disputes to that board?

Mr. HANNA: Where the public could be heard if need be.

Hon. Mr. CALDER: That is one proposition we have. Then we had Mr. Ruel here, and he presented to us a very interesting scheme. I do not say that I agree with it, for like every other member of the committee I am trying to see some daylight. Honourable members know what his proposal was. In effect he suggests that the two systems be continued separately, but that there be an entrusting agreement under which the operations of both roads would be carried on, through the use of the properties of both roads. Further, he suggests that there be a joint board of management to operate the two systems together, with the understanding that Parliament may at any time make a separation—

Mr. HANNA: If it can.

Hon. Mr. CALDER: Yes, if it can. The weakness, if I may say so, in his plan is that he stops just at the point where we would like further information. That is to say, he would have all the moneys coming from the joint operation go into the one till, but he does not tell us how he would divide the revenue between the two systems.

Mr. HANNA: I think he should have gone a step farther and simply suggested consolidation into one system. Then we would know where the money would go: I am very much opposed to it, because I have the interests of the Canadian National so deeply at heart and I think that road could be carried on. For three and a half years we had no interference in any shape, manner or form, from any government; we were as free from interference as the Canadian Pacific Railway itself.

Hon. Mr. CALDER: Your judgment apparently is that if Mr. Ruel's scheme were put into effect, that is if we had joint management, a condition would be created that would make it impossible to separate the two systems afterwards.

Mr. HANNA: That is my considered judgment.

Hon. Mr. CALDER: Then we have the proposition that was expressed by Mr. Beatty, which briefly is that there should be a merger or consolidation of the two systems. Now, Mr. Hanna, may I ask if you would tell us which of the three propositions you think the committee should favour. I am not asking for a snap judgment at all, and if you do not approve of any one of the three propositions but can suggest something different, we would be very glad to know what it is.

Mr. HANNA: I thought that I had made myself clear. So far as the Canadian National Railways Company is concerned, I am definitely in favour of continuing it as a distinct entity without any amalgamation in any shape, manner or form. I am further of the opinion that there should be, on behalf of the Canadian National, a committee of five men of such standing that the committee would carry weight throughout the Dominion, and that one of these five should be a railway man of known and tried ability. That committee should work in conjunction with a similar committee appointed to represent the Canadian Pacific Railway. In the event that difficulties arose that could not be settled by executives of the two roads, such questions should be placed before a meeting of the two committees of five; and only those matters that could not be settled at such a joint meeting should be referred to the Railway Board for a final decision.

Hon. Mr. CALDER: We have been told that it may be possible to effect economies through co-operation as provided in this Bill.

Mr. HANNA: There is no question about it.

Hon. Mr. CALDER: It has been said that the economies might total \$30,000,000 or \$35,000,000.

Mr. HANNA: Who made that statement?

Hon. Mr. CALDER: And we have been told further that if the two railways were operated together, under joint management, the economies effected would reach \$65,000,000.

Mr. HANNA: Then, I suppose the answer is that they should be joined up to-night. I do not know who prepared those figures, but I would not accept them for one minute. Very substantial savings could have been made if the policies that we followed up to 1922 had been continued. But since then great expenditures have been made on capital account, without greatly improving the revenues. This Bill says that there can be no expenses, where both companies are concerned, unless by agreement between them.

Hon. Mr. CALDER: The figures I have quoted are based on the supposition that there will be certain abandonment of lines.

Mr. HANNA: You cannot abandon lines over-night. If that is tried, even under consolidated management, I pity the government that is in power. This is not my snap judgment, that I am definitely committed to the operation of the Canadian National distinct from other roads. I am of the opinion that the two great railways can get together, through their management, and effect economies. And, as I have already said, if the executives of the roads cannot agree on a question of major importance, there should be a reference to the joint committee which I have suggested, and only matters that cannot be settled that way should be taken before the Railway Board. To realize economies of \$35,000,000 to \$36,000,000 would mean the abandonment of—

Hon. Mr. DANDURAND: Five thousand miles of railway. The two railway companies were represented before the Royal Commission, and figures were given in connection with the abandonment of lines. We have been told here that if competitive operation is continued there cannot be an abandonment of more than 1,700 miles of road, but under joint management there could be an abandonment of 5,000 miles, because under joint management all the economies would benefit both, while under separate management, and competition, the economies will benefit one company rather than the other.

Mr. HANNA: Mr. Chairman, I am inclined to smile at that, because I remember that during the War a demand came for two hundred miles of rails, and goodness knows that although there was a Union Government at that time they could not agree upon where they could get that two hundred miles. I suggested where they could have been got; I would have taken the old Hudson Bay Railway.

Hon. Mr. LYNCH-STANTON: They should take that up now.

Mr. HANNA: You have \$50,000,000 up there now, and you are paying a bonus to store up wheat. At that time there was a Union Government. I said "Take up those two hundred miles above the Pas and send them to the Old Country," and they wouldn't agree then.

Right Hon. Mr. MEIGHEN: We took them elsewhere.

Mr. HANNA: You took them from the joint section between Edmonton and Jasper Park. I don't know how they fixed it.

Hon. Mr. CALDER: I can quite understand your attitude as to keeping these two entities entirely apart for all time, but if the two roads were thrown together and were operated together from now on, could they effect much larger economies than if they were apart?

Mr. HANNA: That remains to be seen. I would not answer that question, because I have no idea what economies would be suggested.

Right Hon. Mr. MEIGHEN: If they tore up roads they could.

Mr. HANNA: If they wiped out all the official families of the Canadian Pacific, or of the Canadian National they might, and they could get along, probably, without a bureau of economics. They tried to consolidate the Canada paper business. What have they done? You leave the Canadian National alone and let those men trained by myself in the fine school of rigid economy see what they can do. I have a heart-tie, being first officer of the company and the first officer of the main company in that group of companies.

Hon. Mr. FORKE: I think we take too pessimistic a view of the whole situation.

Mr. HANNA: Who?

Hon. Mr. FORKE: Not you. Everybody takes the view that conditions are going to remain as they are.

Mr. HANNA: They are going to get worse.

Hon. Mr. FORKE: But even with all the extravagance, in 1928 the Canadian National paid all expenses—not interest on the bonds to the Government; but they had a surplus of \$58,000,000, an operating profit of \$58,000,000.

Mr. HANNA: The Canadian National had an operating profit of \$58,000,000?

Hon. Mr. DANDURAND: They had \$41,000,000 in 1926.

Hon. Mr. GRIESBACH: \$58,000,000 is what they had to find out of taxation.

Hon. Mr. FORKE: You are speaking of the bonds to the outside public.

Mr. HANNA: They have never paid that. The fixed charges of the Grand Trunk in 1921 amounted to about \$20,000,000, taking the Grand Trunk, the Grand Trunk Pacific and the Canadian National.

Hon. Mr. CALDER: He is not talking of fixed charges at all.

Mr. HANNA: He said they made a net of fifty odd million.

Hon. Mr. DANDURAND: Over operating.

Mr. HANNA: That would have paid all the fixed charges. Are you suggesting that they paid all the fixed charges?

The CHAIRMAN: They paid practically all their fixed charges to the public, but not to the Government; they paid practically all the interest on the bonds due the public in 1928.

Hon. Mr. FORKE: That is it.

The committee adjourned to meet again this afternoon after the House rises.

The Committee resumed at 4.30 p.m.

The CHAIRMAN: We have had several solutions of the railway problem offered. One, amalgamation of the two lines; another, joint operation; and a third as provided for by Bill A. Would it be helpful or wise at this time to try and ascertain with which solution we are going to proceed? If we are going to adopt amalgamation, then we need not proceed further with this Bill. If we are going to have joint operation, we need not further consider this Bill. Are we prepared to say now whether or not we want amalgamation?

Some Hon. SENATORS: No.

The CHAIRMAN: Are we prepared to say now whether or not we want joint operation?

Hon. Mr. SHARPE: We are not prepared.

The CHAIRMAN: You are not prepared to decide?

Some Hon. SENATORS: No.

The CHAIRMAN: Then when are we going to be prepared?

Hon. Mr. MURDOCK: I should like to make a suggestion, Mr. Chairman. We have heard at considerable length President Beatty of the Canadian Pacific Railway, also Mr. Ruel, formerly an official of the Canadian National Railway and now in private practice with a legal firm, and this morning we have heard our good friend Mr. D. B. Hanna. It seems to me that this committee is entitled to hear the viewpoint of the responsible operating officers of the Canadian National Railway whose work is to a large extent—whether we intend so or not—on trial here in the minds of some of us and in the minds of the public of Canada. I think this committee would be unfair and remiss in its duty if it did not request some of those operating officers to appear before us and give us their views.

The CHAIRMAN: Theoretically Mr. Murdock is absolutely right, and we have had that in our minds. But you will remember I wired to Mr. Hungerford, and in reply he said he had no views to present, except that he was against amalgamation. He and the other operating officers of the Canadian National are really employees of the Government, and therefore are not in quite the same position from their standpoint as the employees of a private company. I know there is no objection by anyone to have Mr. Hungerford or any of his staff come here if he or they would care to do so; but it is questionable whether we ought to ask them maybe to express views against government policy.

Hon. Mr. GILLIS: Were Mr. Hunter and Mr. Ruel asked to come?

The CHAIRMAN: Yes, they were asked to come. Like Senator Murdock, I should be glad to hear these men, but I understand their peculiar situation, and whether or not they would care to come it is doubtful whether it would be wise in the interests of everybody to request them to attend.

Hon. Mr. SHARPE: I spoke to Mr. Warren in Winnipeg—he is in charge of the western end of the Canadian National System—and he told me he was ready to come. But I think we should hear Mr. Hungerford before we bring in any person under him.

Hon. Mr. MEIGHEN: Mr. Chairman, I have not the least objection to anybody coming. We must remember, of course, that Mr. Hungerford gave evidence before the commission. I do not suppose all of us have seen it, but certainly Senator Murdock has, for he has read that evidence. I have read it also. His views are evidently very carefully expressed there, they give every sign of preparation, and I fancy he would merely repeat here what he said before the commission. I cannot think of any other Canadian National official at the moment except possibly Mr. Warren, and I do not know whether he gave evidence before the commission. But even though they might feel that amalgamation of the two system was right—I do not think they do—I do not think they would want to come before a committee of Parliament and give evidence against the continuation of their own company. From what I know of them I think they would probably favour the continued autonomy and integrity of the Canadian National.

Hon. Mr. CASGRAIN: Mr. Chairman, the people do not seem to be prepared for amalgamation. But if there is a majority in this committee in favour of Government operation—not Government ownership; we have got it already, we cannot help ourselves; I wish we had not it—I think we are wasting time talking. We have had Government operation for fifty years, and that was the curse of the Maritime provinces.

Hon. Mr. COPP: Order, order.

Hon. Mr. CASGRAIN: We have paid for giving Government ownership a trial, and we are going to continue to pay for it. Personally I am against Government operation.

Hon. Mr. CALDER: Hear, hear.

Hon. Mr. CASGRAIN: If you go through the libraries and consult all the books on the subject you will find Government operation has never been a success anywhere. If the majority of this committee want to continue that operation, it will be very simple to take the yeas and nays on the question, and there is no use debating the subject any more.

Hon. Mr. MURDOCK: Mr. Chairman, I think that is the very reason why we should have some of the responsible operating officers of the Canadian National before us. My friend Senator Casgrain is absolutely set; he has intimated that. I think we all know his position. I am absolutely set, and I am of the opinion that possibly a number of other senators are set in the view that possibly Canadian National Railway operation may be and should be made a success. I think some of us believe that there should be in this Canada of ours a healthful rivalry, if you will, in the interests of the people in transportation facilities. I think it would be rather unfair if we went ahead and took a vote without hearing further and directly from those who are in charge of the Canadian National Railway.

May I say a further word? A week ago last Saturday with others I met Acting President Hungerford on another matter. He had not been very well recently, and I understood he was leaving that night for a holiday, I imagine in the South, to see if he could not come back a little better. I am of the opinion that he might not be available to appear before this committee. Even so, I am quite sure that there are other officers at the head office in Montreal who could be deputized to come here and give us the benefit of their experience and advice.

Hon. Mr. CASGRAIN: Are they free agents, being Government employees?

Hon. Mr. MURDOCK: You are as good a judge of that as I am. But we could at least hear them and decide what value could be placed on their evidence. I doubt that they would be so biased, from certain points of view, as some other witnesses that we have had here and who have made statements, that, in my opinion, differs materially from what was placed before the Royal Commission.

Hon. Mr. BALLANTYNE: I think it would be placing the officials of the government road in a very unfair and awkward position to ask them to come here and give evidence. As the leader of the Government has well expressed it, they certainly would favour continuing the Canadian National Railways. It certainly would be most unfair to ask any of those officers for their views in regard to policy, and what they thought about the present board of directors, a board of trustees, or an arbitral court. This committee can take it for granted that each and every officer of the Canadian National Railways is in favour of continuing the road along separate lines, and it appears to me that it would be only a waste of time to bring them here and subject them to embarrassment.

Hon. Mr. McRAE: I am one of those members of the committee who have not definitely made up their minds with reference to the various questions involved in this Bill. Before the recess we passed a resolution in favour of what might be termed voluntary co-operation. In the meantime about two and a half months have elapsed and I hear that considerable progress has been made along the lines that we suggested. Now, I think we should be informed of what has been done in that respect, and that such information would be very useful in helping us to make up our minds here. I do not think there is anyone more qualified than Mr. Hungerford and Mr. Beatty to tell us what has been done in the last two and a half months.

Hon. Mr. CALDER: Mr. Chairman, I was about to make the same suggestion, and for the same reason. For goodness sake, let us find out what has been done in the last two and a half months. We should not be asked to reach a decision until we know to what extent the roads have co-operated. Like Senator McRae, I have not made up my mind on the various questions before us, and if Mr. Hungerford cannot come here let us ask that someone to represent him should come, someone who is familiar with what has taken place.

Hon. Mr. CASGRAIN: Hear, hear.

Hon. Mr. CALDER: Furthermore, before we finally lock horns on this Bill, it strikes me that we should hear representatives of the agricultural interests. We have heard evidence from railway representatives, labour men, and others, but so far we have heard nothing from the agriculturalists. Why should we not ask the organizations whose membership comprises hundreds of thousands of farmers to send some delegates here and give us their views? We would not lose very much time through that. Parliament will be sitting for at least another three months, and we can afford to spend three weeks yet on this Bill.

Hon. Mr. LYNCH-STAUNTON: It does not seem to me that the honourable Senator's last suggestion is one that we should adopt. We are not here for the purpose of deciding what is the most popular thing to do; we are not here to find out what the farmers, or the merchants, or any other class or classes want, but to endeavour to arrive at a solution which will be in the best interests of the country as a whole. We might get from the West, for instance, a divided or unanimous opinion with respect to the proposals to continue the roads separately. How far would that advance us? In that way, if we were looking upon the matter from a purely political point of view, we might learn how the sails should be trimmed, but for the life of me I cannot see how we would get any help in endeavouring to solve the problem that confronts us. As far as I can recall, the evidence that we have heard has been generally unfavourable to amalgamation; it has pointed to the conclusion that under existing conditions amalgamation is impracticable. I do not think any member of the committee who has read the evidence, who has discussed the question with his friends and thought the matter over himself, can suggest a practicable form of amalgamation. According to the evidence that I have heard, it would seem that the opinion of the experts—and they are the only men whose opinion is worth anything—is that the roads can be carried on best as separate entities, but that the relations between them should always be harmonious. We want to arrive at some solution in the form of a Bill that will drive out this accursed rivalry and jealousy, and which will satisfy these railroad people that each road has a fair chance, and that there is nothing in competition. I have always considered that competition is the curse and not the life of trade.

I think that every member of this committee, with all his heart wants to arrive at a conclusion which is in the best interests of our suffering country. I do not think anybody here has any axe to grind or any preconceived view to carry out. In that spirit I would be delighted to hear anybody who can cast any light on the subject, but I do not care one straw for popular opinion in the settlement of this question.

Hon. Mr. ROBERTSON: Mr. Chairman, there is one observation I should like to make before the committee. I think it would be a mistake to bring Mr. Hungerford here to give evidence against the C.P.R., he having been employed with that company for many years. Furthermore, Mr. Hungerford's health is another reason why he should not be asked to attend.

Hon. Mr. CALDER: My honourable friend has referred to the evidence that we have had. Where did it come from? We first had Mr. Beatty. Would any member of this committee say that he is not prejudiced? I do not use that word in a critical sense.

Hon. Mr. LYNCH-STAUNTON: Every man that you bring here is prejudiced.

Hon. Mr. CALDER: Mr. Beatty put his views before us; then we had representatives of the labour organizations, and we know what their attitude was, and it was perfectly natural; then we had Mr. Ruel, who, I think, was probably the most independent witness.

Hon. Mr. LYNCH-STAUNTON: I think so.

Hon. Mr. CALDER: He is a man who has severed his connection with the Canadian National Railways, and is now practicing law. He has no hope or desire to get back into the railway business, and I doubt if he has any political aspirations. Then we had Mr. Hanna, and I am sure that no person will say that he was not at least a little prejudiced—and we cannot blame him for that; he was almost born with the old Canadian Northern. Now where are we going to get further evidence? Why take any more evidence at all? Why not sit down and decide this question? If we cannot get any evidence from independent people who are going to help us in dealing with this question, let us get to work and settle it.

Hon. Mr. LYNCH-STAUNTON: That is what I think we should do.

The CHAIRMAN: I started something, but I wanted to find out what you desired to do.

Hon. Mr. MURDOCK: It occurs to me to ask Senator Calder, why should this independent gentleman who has gone into legal life want to get back with \$8,800 a year of a pension on his own request?

Hon. Mr. CALDER: I do not know anything about that.

Hon. Mr. MURDOCK: I do.

Hon. Mr. CASGRAIN: It shows he is independent now that he has got a good thing.

Hon. Mr. LYNCH-STAUNTON: Whom does he speak of?

Hon. Mr. DONNELLY: Mr. Chairman, you asked what we should do. We have Bill A before us in the regular way, and it is the only thing that is before us. It is two and a half months since we started considering the Bill, and we have heard a good many people with respect to it. Speaking for myself, I think the members of this committee have sufficient intelligence to make up their minds what they should do with this Bill without hearing any further evidence. Personally I am prepared to go on and consider the Bill clause by clause. I have my mind pretty well made up as to what we should do, but the time to express my views will be as we discuss the different clauses of the Bill.

Hon. Mr. GILLIS: Why not deal with the Bill first? If we drop the Bill, then the other questions will not come up.

Hon. Mr. DANDURAND: Mr. Chairman, may I say a few words on the question you have put to the committee? There is no doubt that if the committee is in favour of another principle than that which is embodied in the Bill, now is the time to say so. We have twice gone over the Bill from A to Z, and there are a considerable number of amendments that will have to be discussed also.

I desire to draw the attention of the committee to this fact in order that the people should understand what has been my position in this matter. When the Bill came before the House I directed attention to the fact that the Senate had studied this very problem in 1925, and I spoke of the conclusions of the committee, which were as follows:—

Among the different schemes discussed by the witnesses the most important were:—

- (a) Co-operation between the Canadian Pacific Railway and the Canadian National Railway systems.

- (b) The acquisition by the Government of the Canadian Pacific Railway.
- (c) The sale or lease of the Canadian National Railways to the Canadian Pacific Railway.
- (d) The transfer of the Canadian National Railways to a private company, to be owned and operated by such company.

I desire also to draw attention to the fact that I then said:—

Mr. Beatty suggested before the Royal Commission that unification might be effected by leasing the Canadian National Railways to the Canadian Pacific Railway, and the report makes reference to this suggestion; but, as this would mean a railway monopoly under private ownership, I do not suppose that the Parliament of to-day or of to-morrow would be disposed to seek such a solution of the railway problem.

This was the opinion I was expressing on that occasion on amalgamation or monopoly under private ownership. I have not changed my mind as to that.

I am not disposed to-day, nor was I then, to favour the lease or sale of the Canadian National Railways to the Canadian Pacific Railway, to be operated by that company. I will not dwell at length upon the reasons, but there are many. I have the conviction that the people of Canada have an interest of \$2,600,000,000 in this venture, and I would feel that it would handicap the future of this venture in which we are so deeply interested if we handed it over to a private company. I feel also that within the next ten, fifteen or twenty years the population of Canada will increase gradually, and perhaps rapidly at times, and that we may have a chance to receive a fair return for that immense outlay. Just now I cannot see how we can dispose of or lease our property. I am not speaking of selling our property to any private company without securing its future, and I believe that we should do nothing to diminish the chance of the generation that comes after us in finding a return for the immense outlay that we have made. This is one of the reasons, and only one, why I would not favour a monopoly in private hands.

But the question has been put to the public. We may by our silence pass it by, or we may say that we do not feel like establishing such a monopoly.

Now the other proposition has cropped up that the Canadian Pacific Railway should be annexed to the Canadian National for the national operation of the combined systems. I do not intend to go deeply into it, but I am averse to the idea. Would it be feasible? I do not think so. I would fear very much for the future of the whole National system.

So when people speak of creating a railway monopoly, and some have joined my name to the idea, I disown it. I have never been in favour of a railway monopoly either under private ownership or under public ownership.

If this committee discards those two ideas, then we have to deal with this Bill and with the idea, which was unanimously voted by our Chamber in 1925, of linking the two principles of private ownership and public ownership under joint management while maintaining separate and distinct the two entities. I shall not discuss it at length, because Mr. Ruel made an illuminating statement with respect to it. I cannot say that I am wedded even to that idea. I have an open mind.

We are here to-day to do our best. But we know the country is being bled to the extent of a million dollars a week. The taxpayers are paying that million dollars a week to cover deficits of the Canadian National Railways. This is a very serious situation. This weekly deficit represents over fifty million dollars a year. With the heavy load that we are carrying in divers fields, caring for the unemployed and in other ways, I believe that there is no more serious question that can come before the Senate of Canada or Parliament than the one which is now before us.

This is why I believe that if the committee feels like I do, that there can be no question of an amalgamation, either under private ownership or under public ownership, then we may address ourselves either to the Bill as presented, which may be amended, or to the idea of joint management. It would be with considerable difficulty and with somewhat of a wrench that I would have to record my view. But I have felt that unless Mr. Hungerford, who just now has our fortune in hand, can tell us—and I must say that I have read with considerable interest his statement which appeared in the annual review of the Montreal Gazette on the 1st of January—I repeat, unless he can say that he thinks he sees light and he can bring about a condition of equilibrium and so in a measurable way stop the financial bleeding, I shall be inclined to say: Well, I can feel that joint management will do it.

I am thinking of the solvency of my country, I am thinking of the morrow. We have not yet perhaps reached the depths, and I want to do the best we can in order at all events to re-establish fair conditions in our railway systems.

Hon. Mr. LYNCH-STAUNTON: Mr. Dandurand, under joint management nobody has yet got into my brain what it means. What is the practical working out of joint management? What are they going to do when they jointly manage the two systems?

An Hon. SENATOR: Put them all into one pool.

Hon. Mr. DANDURAND: Mr. Ruel described it, and I saw it in the same way. Under section 16 of this Bill power is given to the two railways to get together as near as possible in the spirit of co-operation, and they may make:—

Leases, entrusting agreements, licences, or agreements for the pooling and division of earnings arising from the joint operation of any part or parts of freight or passenger traffic, or express, telegraph, or other operating activities or services; joint trackage, running right, joint ownership, or joint operating agreements, depending upon the nature of the property or services included in any co-operative plan; and joint or individual highway services, or highway and railway services combined, in any form.

Hon. Mr. LYNCH-STAUNTON: Does your idea of joint operation go beyond that?

Hon. Mr. DANDURAND: I do not believe that it goes beyond that, but I believe that joint management is more feasible than separate or competitive management. Mr. Ruel has told us that so long as the two companies remain separate, when they approach each other with a view to making economies they will have in mind the effect upon their respective systems. A proposed economy might benefit one system alone, and in that event the parties would be at loggerheads as to who should get that benefit. Now, under joint management both systems would benefit by economies.

Hon. Mr. GRIESBACH: How do you make that out?

Hon. Mr. DANDURAND: Because both would share in any savings. Under joint management the endeavour would be to operate the two railways in the best interests of both, so that whatever economies were effected would be shared between them on a certain basis. There would be no conflict of interests under joint management, such as there would be under the plan proposed in this Bill. That plan might effect considerable savings, but I am quite sure that joint management would. I hesitate to oppose the joint management scheme when I see that it could be such an effective cure of the existing evil.

Hon. Mr. GORDON: Mr. Chairman, I understand that since we passed the resolution in favour of co-operation, the railways have had a committee working along that line. I suggest that the members of that committee should come

here and tell us what has been done. I further suggest that if Mr. Hungerford, or any other railway officials are brought here, the evidence should be confined to the economies that have been effected by the two roads during our adjournment. My humble opinion is that we should proceed with Bill A.

Hon. Mr. MURDOCK: Mr. Chairman, there seems to be a difference of opinion as to whether we should call Mr. Hungerford, and it appears doubtful whether in any event he could come here. Therefore, I wonder if it would be helpful to us to read evidence that he gave before the Royal Commission. From that evidence we could get his viewpoint, unbiased by anything that has taken place during the past few months. I hold a copy of extracts from that evidence in my hand, and I think it would be of assistance to us to read it.

The CHAIRMAN: Will you read it now, Senator Murdock?

Hon. Mr. MURDOCK: Here it is, extracts from evidence of Mr. Hungerford, page 793:—

Now coming to the various solutions that have been discussed, I would like to express my opinion in regard to one suggestion, and that is the amalgamation of the two major railway systems.

(1) The consolidation of practically all railways into one system would inevitably result in a serious decline in the energy, initiative and enthusiasm of the officers and employees which is now at a remarkably high level and which has been largely developed and sustained by vigorous competition. The spirit of loyalty and enthusiasm constitutes a most important asset and if it were seriously impaired, as it doubtless would be, the resultant loss would largely, if not wholly, offset any savings that might be effected. Not only would the railways lose in efficiency and consequently in the cost of operation, but the public would also suffer seriously from the general slowing down and deterioration of the service. Competition has very largely created the existing morale of the staff and only competition can maintain it.

(2) In view of the efforts that have been put forth by the people in various communities and sections of Canada and the obligations that have been assumed to secure competitive railway service, it would appear that the people generally place a high value upon it, and presumably would be reluctant to give up now what they have secured. At one time there was practically a railway monopoly in Western Canada and during that period there was almost constant agitation for the construction of other railways and the provision of competitive service. This agitation nearly developed into an insurrection and forced the Government of the time to make arrangements whereby the construction of competing lines became possible. Even although well served by one railway, a community almost invariably presses for the construction of another one whenever there appears to be a reasonable chance of accomplishing such purpose, in order, as they believe, to benefit the community and quite regardless of whether such construction is justified economically, or otherwise. A review of what has occurred in past years, together with the fact that such efforts are being made even now, must lead to the conclusion that the people generally do place a high value upon competitive railway service.

LORD ASHFIELD: If I understand you correctly, you are in favour of competition?

Mr. HUNGERFORD: I am.

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LORD ASHFIELD: Your experience tells you that the best results to the community as a whole are obtained by having competitive services in these two railways?

Mr. HUNGERFORD: Yes, within reasonable limitations.

Lord ASHFIELD: Perhaps you would explain what you mean by reasonable limitations, and how they could be made effective.

Mr. HUNGERFORD: Every once in a while competition more or less runs away and develops into a ridiculous position. It is quite possible under the stimulus of competition to have unwise development—too much service, too high class service or something of that kind. But after all, competition in railway services in Canada is of the same general character as that of competition between railways in other countries, the United States included, and also of the same character as the competitive factors as between commercial firms of all kinds everywhere.

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Mr. HUNGERFORD: Well, I think it is in the general interest, in view of the fact that these two railways exist at the present time, that they should be continued as separate institutions and allowed to compete one with the other, with a certain measure of restriction against unreasonable development, but still maintaining the principle of competition.

Sir JOSEPH FLAVELLE: What is the method of restriction you have in mind?

Mr. HUNGERFORD: I rather endorse the principle of the suggestion of Sir Henry Thornton yesterday as to the appointment of some body—or at least some commission being endowed with power more or less to supervise and to prevent ridiculous developments.

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Lord ASHFIELD: Can you help the Commission on this question of what you call ridiculous competition by suggesting how that can be avoided? You do think it is a ridiculous position now, do you, or has competition got that far yet?

Mr. HUNGERFORD: I do not think that a large proportion of the competition between the two railways has been unwarranted or ridiculous at all, but I do admit that in certain developments it has reached a ridiculous point. I have no hesitation in saying that I think we went too far with hotel development and in connection with some steamship developments, and to a slight extent we have done so in connection with passenger train services. That is pretty well past now—it is pretty well done.

Sir JOSEPH FLAVELLE: Adversity helps us to become wiser, some times.

Mr. HUNGERFORD: I think we learn from experience.

The CHAIRMAN: Does that extend to premature construction?

Mr. HUNGERFORD: Well, to some extent, sir.

The CHAIRMAN: May I put this question—and I do not want an answer in detail at all; in what you have just said are you thinking of what was done in the light of experience, or in the light of what should have been a proper judgment at the time?

Mr. HUNGERFORD: I am not quite sure of your reference, sir.

The CHAIRMAN: I mean with regard to premature construction. It is easy to say now: "Oh well, it was too soon," and so on; is it from that point of view that you would criticize such items of premature construction as you have in mind, or do you say that looking at it from the point of view of the judgment that should have been exercised at the time the construction was decided upon, it was unwise competition—to use a milder phrase than the one you have used?

Mr. HUNGERFORD: Well, one's hindsight is always much better than foresight.

The CHAIRMAN: That is what I am recognizing.

Mr. HUNGERFORD: But under the conditions that prevailed at the time these major developments took place, particularly in connection with the construction of the Canadian Northern and the Grand Trunk Pacific, as being the most outstanding feature in railway development of that day, I think Sir Joseph will bear me out in this, that there was a general support of the proposal throughout the country, and that was reflected in the acts of Parliament bearing upon the question. I happen to know that Sir Joseph was one of the objectors to the policy, but it is a fact, I think, that the great majority of the people at that time thought it was the proper thing to do. I recall distinctly reading in many editorials in representative newspapers statements to the general effect that railways could not be built rapidly enough to cope with the development of the country. It is not a species of condemnation at all; I am simply stating a fact that is recognizable by all.

The CHAIRMAN: I really had not in mind the large question of policy involved in the construction of the Grand Trunk Pacific, or the question, whatever it was, whether of policy or something else, involved in the construction of the National Transcontinental; I was thinking of the more recent developments that have been criticized, particularly in Western Canada.

Mr. HUNGERFORD: The railway development since perhaps 1920 has consisted almost entirely of the construction of branch lines, and both companies have followed about the same policy and practically to the same extent. I do not think it can be argued in any case that any one of these branch lines in itself directly is justifiable but from the standpoint of the national interest and from the standpoint of the secondary benefits to the railway, I think a case can be made. Any good policy, however, may be carried too far, and the question therefore is whether that good policy was carried too far in this instance or not. Personally I doubt whether it was. I think that the secondary benefits to the railway in the way of the traffic furnished, the movement over the main line together with the increase in the national wealth due to the construction of these lines, would probably justify them—I rather think so.

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Sir JOSEPH FLAVELLE: May I speak from another angle? You have referred to what I think is recognized as an accomplishment in the Canadian National, the loyal spirit which prevails throughout the service; and it has transpired from the testimony of officers during the sittings of the Commission that it is their view that what has been accomplished is a worthily done piece of work. I am not attempting to combat that, but I simply wish to get at this point; this Commission presumably is appointed because the manner in which the railways have been conducted has produced a condition of such embarrassment that it becomes necessary to determine in what other manner they could be conducted so that this embarrassment may be relieved. Now, among the things that belong to a loyal staff is the interpretation of the trustee relationship which is involved. The Government of the country is operating a system of railways, some of them duplicated against one another at an earlier period; some of them in answer to a popular outcry. There is apparent the stern necessity of administration within the limits of the resources of the owner; and that is fundamental in all administration. It has happened in your

case that because the Government of the country has been a free treasury, the expenditures have been very liberal—not a bankrupt road expenditure, but an affluent ownership expenditure. The Chairman asked a little while ago whether your designation of some of these expenditures as involving ridiculous competition was an afterthought after the expenditure was made, or a pre-thought, as it were—a check which you think should have operated upon the natural optimism and buoyancy of a liberal treasury with plenty of money. After all, either the Commission should not have been formed, or, without attempting to express any ungenerous criticism of administration, it is primarily formed for the purpose of endeavouring to correct an existing situation which results in a burden heavier than it is believed the country can bear. Now, the country is faced with a very grave financial situation—fixed charges which cannot be reduced; a heavy capital debt; large pension commitments; substantial subsidies to the provinces. Between one thing and another we will have a very disturbing excess of expenditure over revenue during the current twelve months, so disturbing a sum that the Government apparently is diligently looking for some means of lessening expenditure on the one hand, and I presume, of increasing taxation on the other so as to try to live within the budget. As a senior officer in charge of operation of this great system you have in your very excellently prepared memorandum candidly stated the story of the over-development of these railways without any legal action being taken whereby there could be a reduction of the capital by the usual means of receivership. Believing as you sincerely do that there should be two competitive systems, have you a practical working basis for the two systems to run in competition whereby they will operate in harmony with the resources of the country and maintain necessary present services?

Mr. HUNGERFORD: Well, I believe so.

Sir JOSEPH FLAVELLE: What is it? Perhaps it is given later on in your memorandum.

Mr. HUNGERFORD: There is a little more; perhaps you would permit me to read it, and then we can carry on the discussion further. It does cover that in a general way.

Having regard to all the circumstances I believe the best ultimate results will follow the adoption of the following policies:—

- (1) Maintain present status and organization of the two railways.
- (2) Co-operation between the two companies as far as feasible subject to the condition that in any case, neither company shall suffer loss, and that one or the other, or both, shall secure substantial advantage.
- (3) Continue the present policy of effecting every practicable economy in operation.

I would like to develop that a little more.

- (4) Take all reasonable measures to combat highway competition.
- (5) Restrict capital expenditures to:—
 - (a) Items necessary for safety of operation.
 - (b) Items ordered by competent authority or obligations assumed by agreement.
 - (c) Items which will undoubtedly earn a full return on investment.

In this connection I desire to endorse in principle the suggestion offered by Sir Henry Thornton that some commission be endowed with power,

- (a) To enforce reasonable co-operation between the companies, subject to the conditions outlined above.
- (b) To whom application would have to be made for a certificate of public convenience and necessity before any flotation of railway securities could be made.

The CHAIRMAN: The railway securities to which you refer would include shares, as I gather from what Sir Henry said yesterday.

Mr. HUNGERFORD: Yes, any securities. I do not suggest any particular commission, but I think somebody should have that power.

Sir JOSEPH FLAVELLE: You refer a little earlier to a competent authority. What do you mean by competent authority—Parliament?

Mr. HUNGERFORD: No—the Board of Railway Commissioners, for instance, in ordering a grade separation or something of that description, such as a public service commission. We are ordered by various public bodies to do various things.

Mr. HUNGERFORD: All railways are suffering to some extent from what you say—I think from too low freight rates. The roads in the States evidently thought that was so because they applied for increased rates.

Commissioner LOREE: No, that was not the reason. The fellows that wanted to bring about amalgamation were trying to find some means of saving themselves from receiverships regardless of the interests of others.

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Commissioner MURRAY: . . . A transportation company would be established, and this company would determine the quantity and quality of service, would control advertising, would issue and sell tickets, would issue bonds to each company for the property taken over, would pay for the transport of the cars at cost, the total car mileage being equally divided, as well as the total profit and loss. Now, passenger service is one of the big problems of the whole deficit. Is a broader plan like that practical, and would it be fair to both railways do you think? I am putting it in a general way.

Mr. HUNGERFORD: That of course would be perhaps a feasible arrangement, but I think it was suggested more for the purpose of exploring all possible avenues. But in my view at least it would introduce an unnecessary degree of complication, because when you come to the non-competitive passenger service, as represented by the service on lines that have not common termini with the other railway, why, you can adjust that service to the cheapest basis possible that will be approved by the Board of Railway Commissioners, and you can do no more. That is the policy we work on now; that is the condition to-day. Now, if you were to throw that all in with the competitive business you would be subject to just the same influence, you would be setting up a machine that would not be any more effective so far as that traffic is concerned than the machinery which exists to-day. My view is it would be an unnecessary complication.

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Commissioner MURRAY: What would be your method of separating the competitive from the non-competitive?

Mr. HUNGERFORD: Limit the pooling feature to train services starting and terminating at a common point, or running through common points.

Sir JOSEPH FLAVELLE: Not pooling, but making arrangements for each one carrying on its own service according to the agreed plan. Is that what you mean?

Mr. HUNGERFORD: Pooling has been developed in various forms, but basically it is something like this. You take a record of the earnings of both companies between those points and establish the relative percentage agreed upon between themselves that they will maintain for a period. Then you put all the earnings from that particular service of both lines into a pool and divide the total on the percentage basis agreed upon. There are variations from that, but that is the general fundamental principle, and it is employed quite extensively. But there is another variation in connection with that. The competitive service with respect to passengers is between the terminal points, but the intermediate travel that originates at the originating terminal and ends at some intermediate point, or is picked up at some intermediate point and set down at another intermediate point or is picked up at an intermediate point and set down at the terminal; sometimes that is included in the pooling feature, and sometimes it is excluded. It is just a matter of arrangement, but the underlying principle is the same.

The CHAIRMAN: You were not contemplating a separate corporation?

Mr. HUNGERFORD: No, sir. I do not think anything is to be gained by setting up a lot of machinery for a relatively small thing.

Sir JOSEPH FLAVELLE: You want something that does not interfere with the operation of each property on its own account?

Mr. HUNGERFORD: I think that is a desirable feature.

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Mr. HUNGERFORD: I should like to suggest for your consideration, Sir Joseph, that the explanation in respect to the doing a good job but the cost becoming so great that it cannot be borne, really is this. There was a situation named over to the management of the railway, and if the management had not pursued that course of action with respect to capital expenditures and improvements of the property, the burden would have been greater to-day than it is. In other words, the savings in operating expenses as a result of the improvement in the physical condition of the property, plus of course better organization and all that sort of thing, represents an amount considerably in excess of the interest on the additional capital that has been invested.

I rather pride myself on this, Sir Joseph, that I am a good enough citizen to advocate any course of action, irrespective of how it may affect me personally, if I thought it was in the interests of the country. But this is a situation that has not been created by this management. It was handed to them, and they were instructed to go ahead and do the best they could with it. We have done that within the limits of our intelligence and with the usual percentage of mistakes, and all that sort of thing. But the management was not responsible for these premises. I am not seeking to defend the management at all, I know the question before the commission is as Sir Joseph has said: What can we do now to improve the situation? My answer to that concretely is this: All that you can do in effect under the present conditions is to do substantially what I have outlined—economize in every reasonable way.

The CHAIRMAN: May I interrupt you there for a moment. You have not developed, as you said you were going to, that point of economy.

Mr. HUNGERFORD: Oh, yes I have, sir.

The CHAIRMAN: Very well. Please go on. Economize, and then—

Mr. HUNGERFORD: Economize in every possible way; and coupled with that the endorsement of Sir Henry's suggestion to the extent of some authority being created to enforce reasonable measures of co-operation, because it is quite possible that co-operation for one reason or another would not be carried out to the extent that would be desirable in the national interests. In a particular case it might be an advantage to one company and perhaps not to the same extent to the other and in the next case that situation might be reversed. But I do think in the national interests, speaking from that standpoint, there is justification for having some authority charged with seeing to it that reasonable measures of co-operation are enforced. And further, that no unnecessary or unreasonable expenditures be incurred.

But beyond all that there does not seem to be any royal road by which this situation can be solved. I know that a certain figure has been set up and more or less generally discussed about the results of amalgamation. But when I analyze those credit items I find—at least to my satisfaction and I think the satisfaction of others—that a great many of them are very doubtful of attainment; and in a general way I believe a very large proportion of all the real economies that can be secured at all can be secured under separate operation; and the comparatively slight difference between the degree of economy that can be secured from separate operation as compared with that under amalgamation would be more than off-set by the obvious disadvantages of amalgamation which I have referred to. Frankly, I see no further answer to this railway question at all than to do just what we have suggested—economize in every possible way, and simply hope for a return to normal times. Because the situation on the Canadian National from a financial point of view is much more healthy than it has been.

Sir JOSEPH FLAVELLE: More healthy than it has been, did you say?

Mr. HUNGERFORD: To a very large extent. A great deal of this extraordinary work and expenditure has been disposed of, is behind us, we are getting much more nearly on a normal basis, and from now on our expenditures will be substantially less, both on operating unit basis and in general on capital account. Further, with the increase in business we will earn a larger proportion of net than we have ever done before by a long way. If we were to-day on a normal trend of gross earnings, we would be earning an amount sufficient to pay interest on all the securities in the hands of the public. We are distinctly below a normal trend at the present time; in 1927 and 1928 we were above it.

Commissioner LOREE: That includes the charges on \$20,000,000?

Mr. HUNGERFORD: Yes, allowing for an increase of a million dollars a year on interest charges on account of expenditure of additional capital, and as time goes on, just as a reasonable and sane policy is pursued—I guess I had better not put this in the record. . . .

Mr. HUNGERFORD: Well, Sir Joseph, I have never said or claimed that the administration as a whole has not made mistakes during the period; quite frankly, some serious mistakes were made with respect to matters of that kind. But after all by far the greater proportion of the money so spent was spent usefully and profitably on the property. When you come to the question of hotels, Pacific steamships, and things like that, you are dealing more or less with excrescences that are apart from rail-roading as a whole, for which I am particularly concerned and for which I am particularly speaking.

Commissioner LOREE: Mr. Hungerford, your situation differs only in amount from what is a general situation all over the North American continent.

Mr. HUNGERFORD: That is so, sir.

Commissioner LOREE: 54 per cent of the railways in the United States will not have earned their fixed charges in 1931. You are not going to earn yours.

Mr. HUNGERFORD: No.

Commissioner LOREE:

Sir Joseph and I differ perhaps on the question of management. He thinks management is overpaid; I think management is very much underpaid, and that is one of the main troubles in the situation. Napoleon had a marechal named Massena, whom Wellington thought was the best of the lot. Napoleon said that on the field of battle Massena was worth ten thousand men. Grant had a cavalry commander named Wilson. He sent him to General Thomas and wrote a letter of introduction in this fashion: "In sending you General Wilson I figure I am adding ten thousand men to the strength of your army." I was reading the other night Guedalla's Life of Wellington. He quotes Wellington as saying that in combat Napoleon added forty thousand men to the strength of his army. If that is the capacity of men in military life, what is the capacity of men in industrial life?

Sir JOSEPH FLAVELLE: I accept that.

Commissioner LOREE: I think management is terribly underpaid, and I believe that one of the weaknesses of the industrial structure to-day grows out of the underpayment of management. It is underpaid to a much greater extent even than capital.

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Commissioner LEMAN: Mr. Hungerford, I understand your considered opinion as a public spirited citizen is that the situation we would have to deal with would boil down to this: the Canadian National Railways would be careful, prudent and cautious in their management and effect economies which are summed up to \$23,000,000 a year;

The CHAIRMAN: That is the impression I had, but a moment ago you spoke of these things cancelling one another out. As I understand you now, there should be a probable reduction from \$36,000,000 to \$20,000,000 in capital expenditure, and in addition to that a \$23,000,000 reduction in operating expense.

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Mr. HUNGERFORD: I might just read this list of possible opportunities for co-operative effort, if you wish to have them on the record.

These are subjects for investigation with a view to developing the possibility of further advantageous co-operation:

1. The pooling of passenger train services between competitive points. I have discussed that.

2. Some form of amalgamation or co-operation with respect to the Pacific coast steamship services.

3. The same thing with respect to hotel services.

4. The same thing with respect to telegraph services.

Sir JOSEPH FLAVELLE: Express as well, or just telegraphs?

Mr. HUNGERFORD: Just telegraphs. The express situation is rather complicated by possible developments in connection with meeting high-

way competition; there seems to be a tendency there perhaps to grow away from express and really make it an agency for handling package freight, or something of that kind. The picture is really not sufficiently developed to permit any clear indication of what would be the best thing to do under the circumstances, and for that reason I have left the express companies out.

5. With respect to parallel lines, a continuance of the study of the possibility of the joint use of one or two of the lines and abandonment of the other.

6. Continuing a study of the possibility of further joint use of terminal facilities of various kinds.

7. Looking to the question further of the handling of freight, with respect to certain more or less specific developments in that connection. An illustration of that would be what was mentioned yesterday as to the possibility of saving money by the Canadian National handling Canadian Pacific traffic from Edmonton to Kamloops and the Canadian Pacific, in return, handling a corresponding volume of traffic over their line to Kamloops. The consideration of this phase of the matter is, in my opinion, limited to peculiar conditions of that kind rather than being a point of general co-operation.

8. Joint efforts to meet bus and truck competition.

* * * * *

9. Use of each other's equipment in preference to hiring from other companies. That, I may say, is an arrangement that has been in effect for some time, and it works quite satisfactorily.

10. The possibility of some further co-operative development in connection with lake and rail business. We do not know yet what might be accomplished in that line.

* * * * *

11. The possibility of abolishing or consolidating off-line or uptown agencies of various kinds.

12. Interchange of traffic; an endeavour to influence passenger and freight shippers to use connecting lines of the Canadian Pacific or Canadian National or their subsidiaries, in preference to the connecting lines of other companies. That is, in so far as it lies in our power, to direct the traffic when it necessarily leaves our lines, to the lines of the other company. There are many limitations in respect to the possibilities in that direction, but something could be done and I think it might be worth while.

Broadly, these are the suggestions I have in respect to developing the possibility of further co-operation.

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The CHAIRMAN: I wonder if as a matter of convenience—perhaps my colleagues will have some questions to put to you with regard to it—you would re-read that part of your memorandum in which you deal with what you conceive to be the conditions governing the expenditure of capital moneys.

Mr. HUNGERFORD: I think you have reference to that part of the memorandum which suggests the restriction of capital expenditures in the first place, to items necessary for safety of operation.

The CHAIRMAN: That is what I mean, yes.

Mr. HUNGERFORD: That was the first item.

The CHAIRMAN: Very well, sir, I will read the earlier paragraph so that we can get the whole picture.

Mr. HUNGERFORD: Very well, sir, I will read the whole of the paragraph:—

Having regard to all the circumstances I believe the best ultimate results will follow the adoption of the following policies:—

- (1) Maintain present status and organization of the two railways.
- (2) Co-operation between the two companies as far as feasible, subject to the condition that in any case, neither company shall suffer loss, and that one or the other, or both, shall secure substantial advantage.
- (3) Continue the present policy of effecting every practicable economy in operation.
- (4) Take all reasonable measures to combat highway competition.
- (5) Restrict capital expenditures to:—
 - (a) Items necessary for safety of operation.
 - (b) Items ordered by competent authority or obligations assumed by agreement.
 - (c) Items which will undoubtedly earn a full return on investment.

And then I went on, sir this is more or less connected with it:—

In this connection I desire to endorse in principle the suggestion offered by Sir Henry Thornton that some commission be endowed with power to enforce reasonable co-operation, and so on.

Lord ASHFIELD: There are one or two question I would like to ask. You have had, I understand, a very long experience in railway operation?

Mr. HUNGERFORD: Forty-five years.

Lord ASHFIELD: That has included operation under Company management as well as under the present auspices, government control?

Mr. HUNGERFORD: Yes—twenty odd years on the Canadian Pacific.

Lord ASHFIELD: Do you venture to draw any distinction between methods and policy under company operation as distinct from the operation of the Canadian National under government ownership?

Mr. HUNGERFORD: No, I cannot see any particular difference.

Lord ASHFIELD: One is as efficient as the other, so far as your experience goes?

Mr. HUNGERFORD: I think so, under the same average physical condition and degree of development from an organization point of view—yes, I think so.

Lord ASHFIELD: Do you think the organization is as free in dealing with all the affairs of a railway enterprise such as the Canadian National as would be the case with the Canadian Pacific?

Mr. HUNGERFORD: Well, I shall have to qualify my answer in regard to that. Of course Parliament does exercise a certain measure of control—Parliament and the Government—comparable perhaps with that exercised by the shareholders in the case of a privately owned company, at least to some extent. The chief difference I see between the two is this: that under government ownership the officers at least have a considerably greater amount of work to do in order to accomplish the same results.

Lord ASHFIELD: Statistical work, you mean?

Mr. HUNGERFORD: Arising out of the government connection I suppose—a great many more reports have to be furnished, information

of various sorts, correspondence about this, that, and the other thing. It really does not go beyond that, so far as I can see, except when it comes to the question of ultimate financial control.

LORD ASHFIELD: Has it had a restrictive effect upon the activities of the organization—all this extra work that is put upon it?

MR. HUNGERFORD: No, I would not think so.

LORD ASHFIELD: It is simply a matter of labour, that is all.

MR. HUNGERFORD: That is all. I think perhaps, my lord, I can answer your question in this way—and in saying this I do not suggest any criticism at all of another company. But during the period under review—

LORD ASHFIELD: You are talking about when—what is the period under review?

MR. HUNGERFORD: Say 1920—the last ten or eleven years. So far as I can see, and I think I am pretty well informed with respect to the situation, the management of the Canadian Pacific Railway has pursued exactly the same policy as that of the Canadian National. I see no difference at all.

LORD ASHFIELD: Perhaps that might be admitted, but may there not be an explanation for it? I suggest the explanation might be—I do not say that it is—that the policy of the Canadian Pacific has to a certain extent been dictated by the policy of the Canadian National.

MR. HUNGERFORD: I can hardly believe that it was dictated in very large degree, from the fact that the Canadian Pacific took the initiative on many occasions in connection with the development of new enterprises. I say that in no spirit of criticism; it is simply a statement of fact. The influence, if it was materially effective in either case, was mutual, and perhaps of equal effect on each side. Certainly nothing the Canadian National did or proposed to do, that I know of, suggested the building of a hotel in Toronto, by way of example. I do not know of any.

SIR JOSEPH FLAVELLE: I did not catch the last sentence—suggested what?

MR. HUNGERFORD: I do not know of any action by the Canadian National, or any measure of policy, which suggested the building of a hotel in Toronto like the Royal York, for instance, and I simply cite that as an example. The Canadian National did not propose to build a hotel in Toronto, or do anything about it; the Canadian Pacific elected to do that, for reasons that seemed good to them at that time. I repeat that no criticism is suggested; I quote that as an indication that apparently the Canadian Pacific saw fit to do many things, and in general about the same things that were done by other railways and other commercial concerns. It was a period of optimism, and it is common knowledge that during several years most firms developed more rapidly than they now wish that they had. But I do not really think there was any material influence in that.

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MR. HUNGERFORD: An excellent reason, yes. We have been actuated by the same motives, and in general, so far as circumstances would permit, have followed just exactly the same practices and policies as we did long before amalgamation, when we were all under private ownership. I personally can see no change.

Lord ASHFIELD: If you venture to review what has transpired in connection with the various activities of the Canadian National Railway during the period under review, say the last ten years, do I correctly interpret your view when I say that whatever did happen would not be very different from what would have happened if instead of being under government ownership and control the undertaking had been carried on under similar auspices to that of the Canadian Pacific Railway? Do I go too far, or does that express your view?

Mr. HUNGERFORD: I think that is substantially a correct statement.

Lord ASHFIELD: So far as you know it is equally true to say of the Canadian Pacific that during the last ten years they have not been tempted to make expenditures for services beyond what business prudence would demand on account of any policy of the Canadian National Railway?

Mr. HUNGERFORD: I do not think so. I think if there had been another private company competing with the Canadian Pacific, a company that had equal resources and opportunities, the degree of competition would have been about the same.

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Mr. HUNGERFORD: Obviously there was competition of a sort in earlier years between the Canadian Pacific on the one hand and the Grand Trunk on the other. The Canadian Pacific was a wealthy corporation, capable of doing almost anything it desired to do at that particular time, and the Grand Trunk for a number of years was living from hand to mouth, as it were, and naturally could not do many things. I am not referring to the kind of competition; but if the conditions with respect to financial resources had been substantially the same, then I think about the same degree of competition would have developed, that is, under the same circumstances with respect to optimism and general development in the country.

Lord ASHFIELD: In those circumstances there would not appear to be much room for economy, would there, if the two systems were fused or brought together in some way?

Mr. HUNGERFORD: No, I cannot see that any great saving would result.

Lord ASHFIELD: Then what prospect is held out for the future? Must we rely almost entirely on a return of what we call a normal situation, a larger volume of traffic coming to the railways, for anything approaching financial stability?

Mr. HUNGERFORD: Yes.

Lord ASHFIELD: In your opinion there is not much to be gained through economies?

Mr. HUNGERFORD: Oh, I think substantial advantage is to be gained from practising economies, if I understood the question aright.

Lord ASHFIELD: What would that be? Have you estimated it?

Mr. HUNGERFORD: No, I do not know exactly how to express that. You have been given a figure of \$60,000,000 as a possible saving under amalgamation.

Lord ASHFIELD: It has been mentioned.

Mr. HUNGERFORD: And a possible saving of \$30,000,000 without amalgamation. I suggested this morning and I suggest again, that

probably many of the items involved are not possible of attainment under all the conditions that exist in this country, and therefore they would not be realized under one condition or the other. But in a general way it is my belief that nearly as much economy can be effected, with the proper methods, under separate operation as can be effected under amalgamation. I do not think the difference between the two would be very great, and in my view at least, there are very serious objections to monopoly under those conditions at all.

Commissioner WEBSTER: Do you mean separate management as it exists now, or under the scheme proposed by Sir Henry?

Mr. HUNGERFORD: Sir Henry's scheme contemplated separate management, with a certain measure of supervision by a board or commission, or something of that sort.

Commissioner WEBSTER: Which can order certain changes?

Mr. HUNGERFORD: Yes.

Commissioner WEBSTER: That is not possible now?

Mr. HUNGERFORD: Well, I don't know.

Sir JOSEPH FLAVELLE: Is it supervision, or control—which is the word?

Mr. HUNGERFORD: Perhaps control is a better word.

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The CHAIRMAN: That is very illuminating, and I think perhaps answers our purposes as far as Mr. Hungerford is concerned. I would suggest that we adjourn till 11 o'clock to-morrow and give the leader of the Government a chance to catch up with his work, and that if nobody has any motion to make we should go on with the Bill.

Hon. Mr. McRAE: I will move that we get representatives from both railroads to report what progress they have made in the matter of economy since we adjourned.

Hon. Mr. LYNCH-STAUNTON: Will we not be exposing to the glare of public opinion all the operations of these people, and perhaps raising a storm of criticism throughout the country. I do not think the companies should be managed in public or that all their business should be laid bare before a public committee of any kind.

Hon. Mr. McRAE: We might have it in camera if there is any particular objection.

The CHAIRMAN: That is impossible, gentlemen, in Ottawa. In this city you cannot even have a private social in camera!

Hon. Mr. McRAE: The two companies have had two and a half months to operate under the resolution that we passed, and surely the question of favourable results being obtained under that co-operation is so important in this matter that we should have a report from the respective chairmen of the two operating committees. What did we pass that resolution for? To see what could be done.

Hon. Mr. CALDER: I am inclined to agree with the senator for Hamilton, that instead of asking for details we could get an expression of opinion from them in a general way as to whether or not they have made good progress and see still further progress ahead.

I would suggest that we ask them to come here on Friday. They should be advised as to the general character of the evidence desired, and one representative from each company would be sufficient.

Hon. Mr. GILLIS: Why not have a written report sent in?

The CHAIRMAN: I am perfectly agreeable to do whatever the committee say; I am not raising any difficulties. But those representatives from each company will not be either Mr. Beatty or Mr. Hungerford—

Hon. Mr. DANDURAND: I think two committees were appointed.

The CHAIRMAN: You are a very curious lot around this table, and all might not agree that the proceedings should not be made public. If you start asking questions what is the railway representative to do? I think by telegraphing both to the C.P.R. and to the C.N.R. we could get a statement in general, to be presented either in writing or by the respective chairmen of the two committees, showing the result of the economies put into effect, without giving any details. Then they might be asked their opinion as to the prospective results. What do you say to that.

Some Hon. SENATORS: Carried.

Hon. Mr. BEAUBIEN: Mr. Chairman, if we proceed with this Bill we want to be fairly sure that we are going to accomplish what we desire to accomplish—economies. During the night the dollar has fallen no less than six points, and therefore there may be great interest in preventing any form of joint management, because the public may want some luxury in the way of competition, or because labour does not want to be restricted too much. But it seems to me that the dominant interest that we have and the necessity that urges us is to accomplish all necessary economies. Now, if you have those gentlemen come down here simply to tell us what they have accomplished up to the present, and you do not ask them what they expect to accomplish later on under that law, their testimony would be absolutely incomplete. We want to find out from them not only what they have accomplished in the past but what they think they can accomplish in the future under this law. I think the best way of getting that information is to have them attend here.

Hon. Mr. FORKE: It would interest me to know their estimate of future traffic.

Hon. Mr. LYNCH-STAUNTON: We are no good at speculation.

Hon. Mr. McRAE: The Minister of Railways recently made a speech in Toronto in which he dealt with the railway situation in considerable detail. It seems to me we are a little too tender on this point. The public would like to know that progress is being made, and the respective chairmen of the two railway committees should come down here and tell us what they can accomplish under this. I do not think that enforced co-operation and competition will mix any better than oil and water. Those two railroad committees have had two and a half months in which to try what they can accomplish and I certainly think we ought to have the two chairmen of those committees come here and give us information as to what they can accomplish under that law.

Hon. Mr. MURDOCK: Mr. Chairman, one gentleman said to me a little while ago that substantial progress had been made; that was around Christmas time. I think something has been done, and that the resolution passed by this committee did do some good by requiring the two railway executives to adopt the attitude, let us reason together and do some of the things that should be done. I think we ought to know what they have accomplished.

The CHAIRMAN: Do you know the names of those two chairmen?

Hon. Mr. MURDOCK: No, but I am sure if you sent word to the two railroads they will send their proper officers to answer our questions and give us certain information here.

Hon. Mr. GORDON: Mr. Jasper Humphrey, Assistant to the Vice-President of the Canadian Pacific Railways, informed me there was such a committee.

The CHAIRMAN: It is moved that we ask the C.P.R. and the C.N.R. to send their respective representatives here on Friday morning at eleven o'clock to report on the progress already effected.

Hon. Mr. LYNCH-STAUNTON: Lost.

The CHAIRMAN: Contrary?

Some Hon. MEMBERS: Carried.

The CHAIRMAN: Carried.

Hon. Mr. SHARPE: Mr. Chairman, are we going to sit on Friday?

The CHAIRMAN: Yes.

We will adjourn until eleven o'clock to-morrow morning.

The committee adjourned until Thursday, February 2, at eleven a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 7

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	Lewis
Barnard	L'Espérance
Beaubien	Lynch-Staunton
Béique	McArthur
Béland	Marcotte
Bourque	McDonald (<i>Shediac</i>)
Buchanan	McLennan
Bureau	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Daniel	Murphy
Dennis	Paradis
Donnelly	Pope
Forke	Rankin
Gillis	Raymond
Gordon	Robertson
Graham	Robinson
Green	Ross
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Laird	Turgeon
Lacasse	Webster.

[Quorum 9]

THE SENATE

THURSDAY, February 2, 1933.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred Bill A, intituled "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," met this day at 11 a.m., in Committee Room No. 262.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: Before we left last night—and this is news to the leader of the Government, as he had gone out—we decided to ask a representative of the C.P.R. and a representative of the Canadian National to appear to-morrow morning to give us information as to the progress that has been made in the effecting of economies particularly since the passing of the resolution by the Senate some two and a half months ago. Now we have to proceed with business this morning. Yesterday I suggested that it was nearly time to take a vote as to whether we were in favour of amalgamation, joint operation, or proceeding with the Bill. How do you feel about that this morning?

Hon. Mr. CALDER: I am ready for a vote.

Hon. Mr. GRIESBACH: So am I.

The CHAIRMAN: Last night Senator Sharpe and Senator McRay were very emphatic that they were not prepared to vote until they heard from these representatives.

Hon. Mr. BALLANTYNE: Have you wired them?

The CHAIRMAN: Oh, yes.

Hon. Mr. BALLANTYNE: What particular good will it do when you get them?

The CHAIRMAN: I do not know. The committee ordered me to wire them.

Hon. Mr. DANDURAND: It struck me as very important that we should hear Mr. Hungerford, who is in charge of the Canadian National. I think it would be interesting to know what he expects under this Bill, which comprises directions for co-operation and forced co-operation by the third part, and to learn something of his opinion as to the economies that can be effected while competition is maintained. I have read some of the evidence of Mr. Hungerford before the Commission. There are hundreds of pages of his testimony, much more than we were given last night. I do not intend to trouble the committee with what Mr. Hungerford said, speaking generally, on the administration of the road; it is what he believes to be the conditions facing him—

Hon. Mr. LYNCH-STAUTON: Mr. Hungerford doesn't want to come.

Hon. Mr. DANDURAND: He did not say that. He sent a telegram—he was far away in the West—and expressed the opinion—

Hon. Mr. LYNCH-STAUTON: He said he doesn't seek to come here.

Hon. Mr. DANDURAND: He does not seek, except we call him.

Right on, Mr. MEIGHEN: Gentlemen, I was not present at the close last night when the decision was arrived at to ask for representatives of the two roads to come here in order that they may reveal to us such progress as they have been able to make along the lines of voluntary co-operation and the consequent economies. I have no objection to the course, but I would be sorry if that course would delay further consideration of the Bill in the meantime.

Yesterday the chairman suggested that we surely had gone far enough to enable the committee to come to a decision as to the general principle that we wished to follow, and intimated that there were three principles involved: First, that embodied in the Bill namely a small trustee board instead of a wide directorate, greater provision for financial control, and co-operative economies by voluntary effort, supplemented where desired by either system by a compulsory arbitrary tribunal. That in essence is the Bill which is the Duff Commission report.

The chairman intimated there were two other principles, namely, amalgamation out and out, and, thirdly, a method of unified management, each owner retaining his property.

For myself I do not see a very great difference between the second and the third. I think unified management means amalgamation in result, whether in ownership or not is not very important. I do not think there is going to be any amalgamation in ownership, for the reason that we have not anything which as a whole anybody wants to buy. Unified management is in effect amalgamation. However, let us leave out the hated word and call it unified management.

We have therefore two principles that we can choose from: One, the principle in the Bill which I have sought fairly to define; second, unified management. I cannot think of anything these representatives can say which will enlighten us on the merits of the case as between those two principles. It is conceivable that they might say something which would persuade us that chapter 3 of this Bill would be unnecessary.

The CHAIRMAN: That is the compulsory part.

Right Hon. Mr. MEIGHEN: Yes, the compulsory part. Chapter 3 is only one feature. I say it is conceivable they might, but that is all we can conceive of. In deciding between unified management and the principle of the Bill, it is inconceivable to me that they can enlighten us.

The rule is that when a bill has passed second reading the principle is adopted, and the business of the committee is to review the measure in detail and bring it, if possible, into better form back to the House. That rule I do not wish to insist upon as being applied at all, because in this respect much greater than the usual latitude was intended, and this committee is really the first tribunal to decide on the principle to be followed in respect to our railways.

So it is quite proper that we should decide on the principle. The way it is usually done is to submit the preamble to the committee. There is not much preamble to this Bill, but there are a few lines at the first which we can call preamble, and if we vote on that we vote on whether or not we want to move along the lines of this Bill or along the lines of unified management. For myself, I am ready for the vote, and I cannot see why the committee should not be. If there are those who strenuously object, I do not intend to press it far, but I do submit to your consideration the wisdom of our taking some concrete steps this morning so the country will know what is the main conclusion of the committee after many months of evidence.

Hon. Mr. CALDER: Mr. Chairman, as I was one of those who desired to have these representatives of the two companies here, I should just like to say a word or two. A situation arose last night after Mr. Meighen left. We had a short discussion with reference to having the question decided as to which of the principles we should adopt, that is, the three mentioned by Mr. Meighen. I say frankly I slept over the matter last night, and I have come to a very definite conclusion, in a sense regrettably.

In the first place, there is no question I think in the minds of anybody that a merger or amalgamation is possible. I never thought so myself. What troubled me was this situation which arose very early in all our discussions. It was represented that economies, and large economies, were necessary. Everybody

admits that. Well, the view was expressed to us very clearly by both Mr. Beatty and Mr. Ruel that those large economies could only be brought about by means of something more than is contained in this Bill.

Hon. Mr. DANDURAND: Elimination of competition.

Hon. Mr. CALDER: Yes, that is it briefly. I must say I was very much impressed with Mr. Ruel's suggested scheme. However, when you analyze it right down to finality it can mean in the end just what Mr. Meighen has said and nothing else. I asked Mr. Hanna pointedly the question as to whether or not, if we adopted the principle of joint management, it would be possible to unscramble the roads afterwards. You remember his answer: He said, no. Now, I am forced to this conclusion; much as I should like to see some scheme, of joint management—I do not say permanently. You will remember I asked Mr. Ruel whether or not it was possible under his scheme to arrange matters in such a way that the roads could be separated and handed back just where they were, and he said yes.

I have clung to that idea. My object through all the discussions has been to endeavour to adopt some scheme that would bring about the largest possible economies in the shortest space of time. I say frankly that I must abandon that idea, for the very reason that anything in the nature of joint management, or whatever you may wish to call it, will, I have come to the conclusion, inevitably lead to the wiping out of the C.N.R.; either the Government must take over all the railways, or else the C.P.R. must own them.

So far as I am concerned, I do not desire that. I should like to see the C.N.R. maintained as a public utility. I do not believe in a railway monopoly, I think Canada would be in a very unfortunate position if all the railways in this country were owned either by the state or by the C.P.R. That drives me to but one conclusion: We should go on with this Bill and make the best job we can.

As to asking these gentlemen to come here, on thinking the matter over, just as Mr. Meighen has said, what can they tell us?

Hon. Mr. LYNCH-STAUTON: Nothing.

Hon. Mr. CALDER: They have gone on with their scheme of economies, they have been co-operating, and I understand they are doing many things which will eventually lead to large economies. A person told me the other day he met representatives of the two roads away down at Saint John where they were looking over the situation in order to effect economies in that area. I presume that is taking place all over the country. Suppose they come here and tell us what they are doing, and so on? After all that is not the real point, and while I advocated that last night, I cannot really see any necessity for it, if we are going to adopt the principle contained in this Bill. So far as I am concerned, I am ready for the vote.

Hon. Mr. MURDOCK: I am seeking for information. Our friend Senator Dandurand a moment ago gave us a suggestion that the co-ordination of the two railways, as I understood, under Canadian Pacific management would be the elimination of competition. It seems to me that most of us and most of the people of Canada would regard that as establishing a monopoly instead of eliminating competition—nothing more and nothing less than establishing a monopoly. Is that what the people of Canada want? And is that what the people of Canada are entitled to after all of the burdens that they have undertaken in connection with this railway situation? And is that what the railroad employees, many of whom have given their entire life to the work of railroading, are entitled to? For that contemplates wiping out thousands and thousands of them, just by the elimination of so-called competition.

Now, Mr. Chairman, here is the point on which I want information. My understanding was that the mandate or order that came to this committee from the Senate was that we were to take this Bill A, which is captioned "An Act

respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," and consider it clause by clause, with a view to recognizing the principle contained in the preamble. I want to know if this committee has got the right to set aside the mandate or order of the Senate and decide here and now that we are not going to consider anything that provides for co-operation between the railways but that on the contrary we are going to decide that a railway monopoly should be set up in this country. If it is proposed to reach a decision to that effect, it seems to me that that should be done on the floor of the Senate and that we should go back and ask for additional instructions before we attempt to do anything of the kind here. I would like to be advised as to that.

The CHAIRMAN: The question raised by Senator Murdock is quite an important one, and if I felt it my duty to stick technically to the rules of the House, or to parliamentary procedure, I would say that we did not have much latitude outside of the four corners of this Bill. But the object of all of us is to get all the information we can and then proceed to consider details. Now, we could proceed in various ways. For instance, we could take a vote to ascertain if there is a majority in favour of amalgamation; and if there is, the Bill would be killed. Or if we voted in favour of joint operation, the Bill would be killed. On the other hand, we could take a vote on the preamble of the Bill, and in doing that we would be staying within the rules of the House.

What am I going to say to the honourable gentlemen who stated so strongly last night that before a vote is taken they wanted to hear some additional representatives from the railways? Those honourable gentlemen are not present. Will someone make peace with them when they come here?

Hon. Mr. ROBINSON: I think, Mr. Chairman, that possibly they understood the committee had adjourned until Friday, which was the day set for the railway people to be here. I myself thought we had adjourned until Friday.

Hon. Mr. MURDOCK: I have met some honourable gentlemen who thought we had adjourned until Friday.

Hon. Mr. DANDURAND: I did not think it was stated that we were to meet this morning.

The CHAIRMAN: I made it quite clear that we would hear from the railway men on Friday, and that we would meet here this morning at 11 o'clock. I am prepared to go on, if it is so desired, and take a vote on the preamble of the Bill, and the gentlemen from Montreal can come here to-morrow. A messenger has been sent to inform the two absent senators that we are sitting, for we do not want any misunderstanding.

Hon. Mr. LYNCH-STANTON: Since Senator Calder has recanted, why not cancel the telegrams inviting the Montreal gentlemen to come here?

Hon. Mr. McLENNAN: I was hoping that someone would suggest that we hear Mr. Ruel again. It struck me that he had given much consideration to the matters with which we are concerned, and that he was extremely well informed about them. I thought that if he appeared again he could give us information that would help us to make up our minds.

Hon. Mr. GORDON: Mr. Chairman, if I am in order I move that we proceed with the Bill.

Hon. Mr. CALDER: Before doing that, Mr. Chairman, I will undertake, with the help of other members, to make peace with the two senators who were in favour of the motion we passed last night. I would suggest that a telegram be sent to the two companies stating that we will not require representatives from them on Friday; and in the meantime I will move, if it is in order, that we reconsider the motion we passed last night and rescind it.

Hon. Mr. LYNCH-STANTON: I will second that motion.

Right Hon. Mr. MEIGHEN: I do not think the motion is necessary. A motion to hear representatives from the railways is not inconsistent with our making a decision now on the principle of the Bill, because those representatives would not be heard on anything that goes to the principle of the Bill, except in relation to one section of the Bill—and nobody is going to interpret a vote in favour of the principle as an absolute adoption of part III of the Bill. A note has just been placed on my desk stating that Senator Sharpe is in Montreal, and that Senator McRae is not in his room.

In the main I am in agreement with Senator Murdock. A bill committed by the Senate to one of its committees is supposed to go to that committee with its principle adopted. Nevertheless, it has always been felt that it is within the power of the committee to refuse to report a bill, and this committee is clothed with that power, if it chooses to take that responsibility. The obvious and also the customary way of deciding a question of that kind is to vote on the preamble. I do not think we would be doing an injustice to Senator McRae and Senator Sharpe if we took a vote on the principle of the Bill now. Our vote could be revoked, if we wished to do that later.

Hon. Mr. MURDOCK: Senator McRae is over at the Railway Department, I am told.

Right Hon. Mr. MEIGHEN: I am ready to wait for him, if it is the will of the committee.

Hon. Mr. DANDURAND: Mr. Chairman, I want to repeat what I have said on the floor of the Senate and I think before this committee, that this Bill, which embodies the conclusions of the Royal Commission, undoubtedly points in the right direction. But I have questioned the effectiveness of the instrument which is before us; I have wondered whether we would work out our salvation under this Bill. We heard Mr. Beatty, who does not favour the Bill, but I do not know whether we put to him a question as to the advantages to be derived from the Bill towards the end that we all have in view. We have heard Mr. Ruel, who spoke as a representative of the Canadian National, and of the Canadian Northern, with which he was in contact for twenty-five or thirty years, and who is one of the bright minds in the railway world. He says, "You will not effect the necessary economies under this Bill, whether you vote in favour of the third part or not, because you maintain two separate organizations and competition." I can see the difficulty of bringing about radical economies under this Bill if competition is maintained. The difference between Mr. Murdock and myself is that he represents special interests and I represent general interests. He represents the employees of the railways themselves—a very respectable interest, but nevertheless a special interest; I represent the taxpayers of Canada, a general interest, and I am interested in trying to lift the load that is on their shoulders to a certain extent, a load which is almost too heavy for them to carry.

If Mr. Hungerford, who has charge of this property of ours, states that under this Bill he thinks he can work out our salvation and stop the bleeding of the public treasury, which is the bleeding of the taxpayer, I am ready to accept this instrument as far as it goes. If we find that it does not bring about the solution that we are all eager to find, of course Parliament can legislate otherwise next year or the year after. That is the whole situation as I see it to-day. Will this effect the economies and the ends we have in view?

There is in the country to-day a considerable body of thinking people, irrespective of special interest, that does not believe that we will effect what we desire. I do not say whether we will or not, but in the face of that situation I wonder whether we are doing our full duty if we go on with this Bill before

asking Mr. Hungerford, who is charged with the administration, and who will bear the responsibility—if we meet with failure, what his opinion is as to the morrow.

Hon. Mr. LYNCH-STAUNTON: I think we must all admit that all railways, when left to their own sweet will, are what the right honourable gentleman to my left called “blazingly extravagant.”

We have had free management of these two railways in Canada, and there has been a free management of the railroads in the United States, and we know what they have brought themselves to. Now there is a unanimous opinion in Canada, outside of railroad circles, that there must be some system of control exercised, and this Bill is aimed at that end. That is the whole purpose of the Bill. It is to limit the expenditures of the railways. What on earth can any railroad man tell us that is any good to us at all? If we were laying down rules of practice for him, as they lay down rules of practice in the court, then I could understand why we should bring them; but all we are doing by this Bill is providing the machinery whereby these two railways can lawfully come together for the purpose of exercising some control over their expenditures. We are not coercing anybody. We recognize that neither Parliament nor a committee of Parliament can point the way in which these men should go. We have to leave it to them; we have to allow them to manage the roads. By resolution of the Senate we entreated them to institute some practice that would lead to economy, and we say to them now in this Bill “We are going to give you the widest facilities that Parliament can devise for that purpose, and we are going to order you to meet together and consult to that end. To encourage you to do that we provide that if either of you think that an extravagance is being practised, and you cannot persuade the other man to discontinue it, you can bring him before a board, and if you can justify your position you can colate him.”

Mr. Beatty made a splendid address in the city of Toronto, and he made a fine address here, but he did not put his finger on one single clause of this Bill, which showed that anything more than his vanity would be affected. He did not say that his great corporation was going to be injuriously affected. He said: “What are you doing? You are taking the control of this private enterprise out of the hands of those to whom its shareholders committed it.” With all respect to Mr. Beatty, we are not doing anything of the kind. We are allowing him to continue his business as it suits him and his shareholders; we are in no way interfering with him, except in this: that if the Canadian National Railway comes along and says “These people are making expenditures which are unreasonable and that we must necessarily follow or we will be injured, and they are not in the interests of the country, the C.P.R. or the Canadian National,” then they will go before this board, if they cannot agree. This board is to have no power to compel them to spend money or to adopt any policy; it's only power is to crib, cabin, and confine them when they should be cribbed, cabined and confined, and I cannot see that we are doing anything that requires any enlightenment from the outside world at all, or that the interests of this Bill are forwarded by inquiring from anybody. We have had all these people before a committee of experts, not only a lawyer but every class of men who are interested in this business and who can foresee the result, if anybody can. After careful consideration, and after hearing all these people that we talk of hearing, they have made this recommendation to us. They have sent the evidence to us. This committee is in a sense a court of appeal. We have got the evidence before us together with the conclusions of the Royal Commission, and the question now is: Are we going to act on those conclusions or are we not? Are we going to take the responsibility of setting-up some new system, or are we going to say: Well, we will pay respect to these people and adopt the Bill, or else we will throw it out. The whole thing is to put this Bill through in some form or abandon it.

Hon. Mr. MURDOCK: Mr. Chairman, Senator Dandurand a few minutes ago paid me the compliment of suggesting from his viewpoint that I was representing special interests. I plead guilty to having had over forty years' connection with the railroad game. I plead guilty of having been a brakeman on a freight train for over twelve years, and then coming up through the ranks, so I know something about it. Senator Dandurand even made it apparent that he was representing all the people of Canada, but that I could only represent the special interests.

Hon. Mr. DANDURAND: I did not say that.

Hon. Mr. MURDOCK: Well, let the record speak for itself. May I suggest to Senator Dandurand that we are indebted to him for that information, because there are some of us who unkindly, and, according to his word, improperly had regarded him as the mouthpiece of the banking interests.

Hon. Mr. LYNCH-STAUNTON: What have the banks got to do with this?

Hon. Mr. MURDOCK: The banks have got a lot to do with this. Any time you or any other gentleman think not, you had better get a little information on it.

Hon. Mr. LYNCH-STAUNTON: It is just humbug, rot.

Hon. Mr. MURDOCK: The banks are calling the tune, and have been doing it. They did it last week to the extent of serving notice for another ten per cent reduction on all the railroad men. The railroad officials did not want to do it, they did not believe it was proper or necessary.

But to come back to my point. Senator Dandurand, according to his own advice to us now, has been improperly charged as being the representative of the banking interests and the special and protected interests of Canada in disregard, if need be, of the rights of the ordinary citizens of Canada. Now he has disabused our minds of that idea entirely, and he is the only one competent, in comparison with myself, to speak for and represent the people of Canada. Even although for some years I have been engaged in trying to present the aims and the views of the men on the railroads, I hope it is still possible for me to see the general good of the people of Canada. I hope I appreciate as much as any senator sitting around here the absolute necessity of doing something that will stop this disastrous and irrational railroad propaganda that has been going on and the expenditures that have been incurred in the years gone by; I desire as much as any man here to do that, and I resent having an honourable gentleman pick himself out as the only one competent to speak for all the people of Canada while some other men must be representing special interests. If the railroad men have got to take the gaff further, and they have to, all right, you won't find me cringing or crying on their behalf, nor will you find them doing so. They have already suffered more than any other part of the human family in Canada, and they are going to suffer more. With all the language that I can bring to my command I am going to object to the setting up of a railway monopoly here that will disregard the human element that belongs to and is part of this railroad game that we should consider. I hope that Senator Dandurand will be able to represent and speak for all the people of Canada in this important matter.

Some Hon. SENATORS: Question.

Hon. Mr. GORDON: I move that we proceed with the Bill and that the preamble be adopted.

Hon. Mr. LYNCH-STAUNTON: I second the motion.

Hon. Mr. ROBINSON: Will the Chairman read the preamble in order that we may know what we are adopting?

The CHAIRMAN: Yes, it will not take me very long.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Hon. Mr. ROBINSON: Is that a preamble?

The CHAIRMAN: It has been so decided by the authorities. If we adopt the motion it permits us to proceed with the Bill and puts out of the running a vote for amalgamation and for unified management.

Now, all those in favour will please say aye.

Some Hon. SENATORS: Aye.

The CHAIRMAN: All those against will please say no.

Hon. Mr. McLENNAN: No.

The CHAIRMAN: We had better take a vote.

Hon. Mr. GORDON: Mr. Chairman, there is only one no.

The CHAIRMAN: When we come to call the roll sometimes the yeas become nays. We ought to be on record always.

The question being put on the motion, the committee divided as follows:—

Yeas: Ballantyne, Bourque, Calder, Copp, Dandurand, Donnelly, Forke, Gillis, Gordon, Graham, Green, Griesbach, Hatfield, L'Espérance, Lewis, Lynch-Staunton, MacArthur, Meighen, Murdock, Pope, Raymond, Robinson, Spence, Stanfield—(24).

Nays: McLennan—(1).

The CHAIRMAN: Twenty-four yeas; nays, one. I think I am safe in saying that the preamble is adopted.

Now, shall we proceed? As the explanatory notes state, words proposed to be left out of the Bill are shown in italics between brackets, and words underlined are new.

Hon. Mr. DANDURAND: Have we not adopted those proposed amendments?

The CHAIRMAN: Yes, tentatively, but not finally.

Right Hon. Mr. MEIGHEN: Perhaps I might repeat what I said yesterday, that in the Bill as it is printed now, all that is in brackets and italicised has been tentatively struck out, and all that is underlined has been tentatively added. But none of that has been done finally, as I understand it, for we were simply making a tentative review before. Now we are proceeding to make final amendments.

The first motion I have to make is that clause 2 of the Bill be stricken out, and the following substituted:—

2. The provisions of this Act shall bind His Majesty and shall prevail over all inconsistent provisions of all other Acts, but so that,—

- (a) that part of section one hundred and seventy-nine of the Railway Act which relates to compensation of employees for financial loss caused to them by removal, closing or abandonment of any railway station or divisional point;
- (b) the provisions of the Maritime Freight Rates Act; and—
- (c) the provisions of any statute of Canada which confirm any contract or enact or provide for any specific or special freight rate, toll or tariff or for the ascertainment of any one freight rate, toll or tariff by reference to any other and the making of deductions or allowances, shall not be deemed to be inconsistent with the provisions of this Act or to be in any manner affected thereby.

It will be observed that paragraph (a) is in compliance with the request of Senator Murdock; paragraph (b) is in compliance with the request of the Maritime delegates, and paragraph (c) is essential and ancillary to the others, its

purpose being merely to make clear that we are not in this Act interfering in any way with any Freight Rates Act that have been enacted, such as the Crow's Nest Pass Act, for example. Of course, the words "shall not be deemed to be inconsistent with the provisions of this Act or to be in any manner affected thereby" should be dropped down in the printing below that paragraph, as it is part of the general provisions, and the figures 1927 should be placed after the words "Maritime Freight Rates Act."

Hon. Mr. CASGRAIN: If we adopt this, the railways will have to raise some rates. The Maritime Provinces get a rake-off of twenty cents on the dollar, do they not?

Hon. Mr. PARENT: I am not a member of the committee, but I should like to ask if the Maritime Freight Rates Act is the one that is based upon the Duncan Report.

Right Hon. Mr. MEIGHEN: Yes.

Hon. Mr. PARENT: Well, the Duncan Report has done a very great injustice to the city of Quebec, and if this section is going to continue that injustice and prevent the city of Quebec from getting the benefit of the freight rates that apply to the Maritime Provinces I think we should be very careful before we vote on it.

Right Hon. Mr. MEIGHEN: This section will not give any additional sanctity to the Maritime Freight Rates Act; it merely provides that by passing this Bill we will not be repealing that Act. We are not engaged in a revision of the Act at the present time. And with respect to the remarks of Senator Casgrain, we are not in any way tying the hands of Parliament in the future.

The CHAIRMAN: May I say a word in explanation of my own situation? I had communication from Quebec in regard to this matter, as chairman of the committee—I think it was Captain Power who wrote to me—and I took the responsibility of writing him along the lines of Mr. Meighen's explanation, and stating that this committee was not changing the Freight Rates Act, was not interfering with it. Parliament can change the Act in any way it chooses.

The proposed amendment was agreed to.

On Section 3, paragraph (a):

Right Hon. Mr. MEIGHEN: I move that the words in italics and in brackets, already tentatively struck out, be finally struck out.

The motion was agreed to.

On paragraph (b)—dispute:

Right Hon. Mr. MEIGHEN: I move that the word "board" in line 29, be struck out and the word "tribunal" be substituted.

The motion was agreed to.

On paragraph (d)—National Company:

Right Hon. Mr. MEIGHEN: I move that all the words after the word "company" in the 10th line be struck out. The paragraph then will read "National Company means the Canadian National Railway Company."

As I explained yesterday, the Bill has been changed in this regard merely as a legal necessity, so that that company will not include the others, but will act as agent of the others in living up to the obligations of this Bill.

The motion was agreed to.

On new paragraph (e)—National Railways:

Right Hon. Mr. Meighen: I wish to insert here as sub-clause (e), instead of the present sub-clause (e), the following:

- (e) "National Railways" means and includes—
- (i) the National Company;

- (ii) all other companies, whether or not railway companies and whether or not engaged in or empowered to engage in transportation of passengers or freight, which are comprised in the Canadian National Railways as defined in the National Act or are elements of the transportation and communication system of the National Company;
- (iii) The National Company in its capacity as manager or operator of
 - (a) any railways, including Canadian Government railways, or
 - (b) any other land, air or water transportation facilities, which have been by order in council or otherwise entrusted or committed to the National Company for management or operation, and
- (iv) the undertakings of such National Company and of such other companies and the works of such railways and of such land, air or water transportation facilities so entrusted or committed.

You will find this at page 5 of the memorandum. This will be new paragraph (c). Counsel for the committee has gone into the constitution of the National Railways, which is an exceedingly complicated entity, and has come to the conclusion that this is the way in which it will have to be defined in order to make the Bill fully applicable.

The CHAIRMAN: It applies to the company and all the other subsidiaries, through the company.

Right Hon. Mr. MEIGHEN: I may explain that the words in sub-clause (b) of clause 3, commencing "which have been by Order in Council or otherwise entrusted or committed"—should not be a part of (b) but separated from it so that they will apply to both (a) and (b). It is only a matter of printing.

New section (e) was agreed to.

On paragraph (e) of section 3—Pacific Company:

Right Hon. Mr. MEIGHEN: We have passed a new clause (e) and we are now dealing with the old clause (e), which will be clause (f). My motion in respect of that is:

That all the words after the word "company" in line 18 to the end of the paragraph be struck out.

I do not think you would want to defer that, would you, Mr. Flintoft?

Mr. FLINTOFT (C.P.R. counsel): No.

Right Hon. Mr. MEIGHEN: "Pacific Company" means the Canadian Pacific Railway Company. That is all that will be there.

The CHAIRMAN: Is it your pleasure, gentlemen, that all the words after the word "company" in line 18 to the end of the clause be struck out?

Some hon. MEMBERS: Carried.

The motion was agreed to.

Right Hon. Mr. MEIGHEN: I propose to move, but will defer it if asked for by the Canadian Pacific counsel, that there be inserted as clause (g) the following:

(g) "Pacific Railways" means and includes—

- (i) the Pacific Company;
- (ii) all other companies, whether or not railway companies and whether or not engaged in or empowered to engage in transportation of passengers or freight, which are elements of the transportation and communication system of the Pacific Company;

- (iii) the Pacific Company in its capacity as manager or operator of
- (a) any railways, or
- (b) any other land, air or water transportation facilities, and
- (iv) the undertakings of such Pacific Company and other companies and the works of such railways and of such land, air or water transportation facilities.

Do you ask it to stand, Mr. Flintoff?

Mr. FLINTOFF (C.P.R. counsel): If it is agreeable to the committee I would ask that that stand.

Hon. Mr. LYNCH-STAUNTON: What is the meaning of the words "which are elements of the transportation and communication system of the Pacific Company"?

Right Hon. Mr. MEIGHEN: Which are factors or parts.

Hon. Mr. LYNCH-STAUNTON: Is a hotel a factor?

Right Hon. Mr. MEIGHEN: Perhaps it is.

Hon. Mr. LYNCH-STAUNTON: I do not think the clause ought to pass, then.

Right Hon. Mr. MEIGHEN: I would think one of the main purposes ought to be to unify hotels at different points; maybe at one point one company's hotel to be closed, and at another point the other company's hotel.

Hon. Mr. LYNCH-STAUNTON: The Canadian Pacific Railway has stock in the Smelters Company.

Right Hon. Mr. MEIGHEN: That could not be an element of transportation.

Hon. Mr. LYNCH-STAUNTON: I think we ought to be clear on this matter, because someone will come along as stupid as I was and say, "If a hotel is included, so is a manufacturing company."

Right Hon. Mr. MEIGHEN: I do not think so. Remember, it must be a company, and if it is a company which is an element of its transportation and communication system, then it is included. I would suggest that the clause should not be discussed further because I do not intend to press the motion. Counsel for the Canadian Pacific Railway asks that the consideration of the proposed sub-clause (g) stand.

Hon. Mr. DANDURAND: But you have clearly in your mind that hotels are one of the elements of transportation?

Right Hon. Mr. MEIGHEN: Yes, I would say so.

Hon. Mr. LYNCH-STAUNTON: The Canadian Pacific may have control of some other company which is a manufacturing company.

Right Hon. Mr. MEIGHEN: We will consider it later.

Hon. Mr. LYNCH-STAUNTON: Why should a private corporation which is not a railroad company come under the jurisdiction of this legislation?

The CHAIRMAN: For the last half century hotels in the Old Country have been an integral part of transportation systems.

Hon. Mr. LYNCH-STAUNTON: Perhaps so, but this is the point I am trying to make. An ordinary commercial undertaking is now governed by certain laws, but because the C.P.R. has got a large amount of stock in this company we should not ring in a commercial enterprise under a Railway Act.

Right Hon. Mr. MEIGHEN: I do not think we do.

Hon. Mr. LYNCH-STAUNTON: The word "elements" appears there.

Right Hon. Mr. MEIGHEN: It is "elements of transportation" though.

Mr. O'CONNOR (Committee Counsel): Mr. Chairman, if I may be permitted?

The CHAIRMAN: Certainly.

Mr. O'CONNOR: The object of these definition clauses is to reach out and take in everything, even possible transportation and communication facilities. I intended at any rate that they should take in everything, even Smelters and wharves.

Hon. Mr. LYNCH-STAUNTON: That is what I object to.

Mr. O'CONNOR: Section 16 is the operative part of the Act, that enables you to pick out any of the things that you want to deal with. Unless they were included in the general definition you could not do that. But I do not suppose there will ever be any necessity for bothering about the smelters, for example.

Hon. Mr. LYNCH-STAUNTON: If it is proposed to meddle with an industry like the smelters, I would emphatically object. In my opinion this Act should not embrace anything that is not reasonably a part of the two railway systems.

Right Hon. Mr. MEIGHEN: I still think it does not. The definition is inclusive, but it is the operating clause that says what can be done. The Canadian Pacific may come and ask that these outside matters be included.

Hon. Mr. COPP: Is the same language not used with regard to the Canadian National?

Right Hon. Mr. MEIGHEN: Yes, but of course it could be argued that the Canadian National has no such properties. There is no intention whatever of interfering with manufacturing establishments, and I do not think it could be held that clause 16, as it stands now, would give the power to interfere.

The CHAIRMAN: Clause (g) stands.

On section 3, proposed new clause (h):

Right Hon. Mr. MEIGHEN: I move that the following be inserted as clause (h):—

“Tribunal” means an arbitral tribunal constituted pursuant to Part III of this Act.

The motion was adopted.

Right Hon. Mr. MEIGHEN: I move that paragraph (f) be relettered as (i). The motion was agreed to.

On section 3, clause (g):

Right Hon. Mr. MEIGHEN: I move that what is now clause (g) be deleted and that the following be substituted:—

Undertaking means the objects, powers, rights, privileges, interests, works, property, facilities and services of a company, and includes any right to control, operate or manage any other company or any works, property, facility or service of that company and the like right with relation to works, property, facilities or services which are other than those of another company, whether such right to control, operate or manage exists by virtue of statute, order in council, letters patent, ownership, part ownership, contract, lease, partnership, appointment for the purpose, working alliance, control of shares of stock, voting trust, right to nominate or appoint officers, managers or directors, trusteeship, agency or otherwise.

Right Hon. Mr. MEIGHEN: This is made to cover the various relationships between a whole swarm of concerns.

The CHAIRMAN: There are over one hundred of them.

Hon. Mr. COPP: Does that not include all undertakings of every kind?

Hon. Mr. CASGRAIN: Certainly, including coal mines in the United States.

Mr. O'CONNOR: When you come to budgeting you must keep in mind every possibility, but when you come to Part III of this Act, you have to restrict.

Right Hon. Mr. MEIGHEN: This takes in everything, because it is necessary to budget for everything included in the system. But when we come to the operation of the arbitral clause, we have to confine it to things in Canada.

On clause 4, sub-clause (2):

Right Hon. Mr. MEIGHEN: I move that the following be added to sub-clause (2) of clause 4:—

and shall not be an officer or director of any other company.

That applies to the Chairman only. The question is whether we wish so to restrict the Chairman. I think it is very questionable. The idea of having the amendments in this form is so that the committee will have a specific opportunity to decide something that has already been under discussion. Someone has suggested that the chairman of the trustee board should not be an officer or director of another company, and this clause is put in so that it will not be overlooked. Personally I think the restriction is very questionable.

Hon. Mr. McRAE: In appointing a chairman we are making a real autocrat, as I see it, and as such he should not have other associations. I am strongly in favour of such a man not being identified with any other business in Canada. He will have enough to occupy his time.

The CHAIRMAN: Where can you get a good man?

Hon. Mr. McRAE: He can resign.

Hon. Mr. LYNCH-STAUTON: What could be the objection? You are making this a whole-time job. A man might be a director of a company without infringing on the law. As director of a company he puts in only an hour a month, perhaps. What harm is there in that? No director devotes very much time to his companies anyway.

Hon. Mr. McRAE: That may be so; nevertheless we have heard a great deal of criticism. When Sir Henry Thornton became a director of the Royal Bank there was considerable criticism about it. We are setting out now to give a man powers beyond those enjoyed by Sir Henry Thornton, and I think it is wise to safeguard against entanglements with any other directorate.

The CHAIRMAN: Suppose the Government as a whole thought that in the interests of the railway it would not be unwise for him to be on a board of a bank, for instance—C.P.R. officials, for example, are very prominent on other boards, and not to the disadvantage of the C.P.R.—

Hon. Mr. CASGRAIN: To the advantage of the C.P.R.

Hon. Mr. LYNCH-STAUTON: I cannot see any harm in it.

Hon. Mr. BALLANTYNE: Furthermore, a man of the calibre that we hope to get is almost sure to be a director of certain companies. I would not like to see a provision carried that he must resign from everything.

Hon. Mr. McRAE: I would compromise with your suggestion, Mr. Chairman, that it be with the consent or approval of the Government. If he wants to go on a board, let the Government approve of it. You are hiring a man for a full-time job, and I do not think he should wander onto the directorate of a lot of other institutions without getting the approval of the Government.

Hon. Mr. CASGRAIN: I do not think the Government should butt into it at all.

Right Hon. Mr. MEIGHEN: I am disposed to agree with Senator Lynch-Staunton. I have in mind a man who has been recommended—I have not the faintest idea whether he is really under serious consideration or not, but he has been highly recommended—and I cannot conceive of that man retiring from the directorate of the great company that he is now running. He would certainly have to retire from the managership, and sever his connection completely in that

respect, but he cannot be asked to say that he will not sit on the board if he takes on this job. That is a pretty big order.

Hon. Mr. McRAE: Would not we meet that by providing that he should get the approval of the Government?

Right Hon. Mr. MEIGHEN: I feel like Senator Casgrain, that I would not like to have the responsibility in the Government. A man of the class of the one that is going to take on this responsibility is going to give his whole time to it, and is not going to let other things interfere. If ever a man was under the public gaze, he will be.

Hon. Mr. McRAE: Shareholders are not limited in any way. Would it not be sufficient to limit it to an officer.

Hon. Mr. LYNCH-STANTON: Anybody is an officer who is above a workman.

Right Hon. Mr. MEIGHEN: A director is not an officer. Senator McRae's idea is to say that he must not be an officer.

Hon. Mr. LYNCH-STANTON: Oh, that is all right.

Hon. Mr. GRIESBACH: Does that sufficiently define it?

The CHAIRMAN: If you are in Montreal, for example, you are under a great handicap in poking around if you are not a director of a company or two. I do not mean for yourself, but for the good of the business you are in.

Hon. Mr. DANDURAND: There is one element that is of some importance, and that is the popular prejudice against the dual responsibility of one occupying such an office as this being in contact with some other large corporation. Tongues keep wagging and saying that some favouritism may be shown by one who stands high in such an administration. I am speaking of a popular prejudice. That is what is behind the amendment, I suppose.

Hon. Mr. LYNCH-STANTON: I think that what Senator McRae has in mind is the fact that this is an all-time job for one man, and that he should not be connected with something else that takes up his time. If the suggestion is that we mean an active officer, I agree that he should not be an active officer of any other company.

Hon. Mr. McRAE: Senator Dandurand has spoken of a sentiment that is very general all over Canada, and I am sure that if, when your chairman is appointed, he joins one or two prominent boards, it will not be to the advantage of the railway company.

Hon. Mr. LYNCH-STANTON: You are not accomplishing anything, because he would sub rosa be a director anyway.

Hon. Mr. DANDURAND: I do not see very much distinction between a man being on a board and everybody knowing it, and a man discarding his directorship while still holding a formidable block of shares in his own name. I am speaking of a general popular prejudice.

Right Hon. Mr. MEIGHEN: I will alter the motion to read in this way; that the words be added as follows:

and shall not be an officer of any company other than the National Company or one within its undertaking.

Hon. Mr. LYNCH-STANTON: That will do.

Hon. Mr. McLENNAN: How would it do to suggest that the chairman shall not become an officer or director of any company? The chances are that any man who becomes chairman of this board is already identified with a considerable number of institutions.

Hon. Mr. LYNCH-STANTON: The Chairman of the C.P.R. is a director of other companies.

The CHAIRMAN: And to the advantage of the C.P.R., I have no hesitation in saying.

You have heard the amendment proposed by Mr. Meighen, which really amounts to this in short, that a man may be a director, but must not be an officer of another company.

The motion was agreed to.

On Section 5—Persons disqualified to be Trustees.

Right Hon. Mr. MEIGHEN: This section 5 is put in in the shape in which it was submitted to the committee before in order that you may decide every single element of it one by one. It is a very important clause. I do not make a motion to pass clause 5 because I do not believe in all of it.

The CHAIRMAN: I will read clause 5:

5. No person shall be eligible for appointment who at the time of any proposed appointment of a Trustee or Trustees under this Act is, or within five years immediately then preceding has been,—

- (a) a member of the Senate of Canada;
- (b) a member of the House of Commons of Canada;
- (c) a member of the Council of any province of Canada;
- (d) a candidate nominated under any Act of the Dominion or of any province of Canada for election as a member of the House of Commons of Canada or of the Legislative Assembly of any province of Canada; or
- (e) the holder of any office, place or appointment to which is, or while it was held by him was, attached any salary payable directly by His Majesty in His right of the Dominion of Canada.

Hon. Mr. CASGRAIN: "A member of the Council of any province of Canada." Would that cover the Legislative Council of Quebec?

Right Hon. Mr. MEIGHEN: Yes.

Hon. Mr. CASGRAIN: Then you had better insert the word "legislative." "A member of the Council" might be a member of a municipal council.

Hon. Mr. BALLANTYNE: I move, Mr. Chairman, that we strike out the whole section.

Hon. Mr. CALDER: I second the motion.

Hon. Mr. DANDURAND: Remember, this is the work of a Royal Commission.

The CHAIRMAN: Let us discuss the section to see why we are striking it out.

Hon. Mr. DANDURAND: There is something to be said in favour of excepting from appointment a member of the Senate or of the House of Commons. He becomes an official of the Government and can be called before the committees of Parliament. I wonder if there is not any incompatibility between that and the function of a Member of Parliament.

The CHAIRMAN: Let us take up number one.

Right Hon. Mr. MEIGHEN: Gentlemen, this clause is merely a submission of what clearly the Commission had in its mind. If we strike out the whole clause then I fear we shall be subject to the charge that we are departing too violently from what the Commission deemed important. I do not suppose anybody in the Senate or the House of Commons expects to be appointed, and I have no objection at all to the first two paragraphs remaining; I have equally not any objection to the last three paragraphs going out. But we are in the hands of the committee completely. There is nothing very vital about the clause, it is mostly imagination, but I fancy it would be more tactful to leave some of it in.

Hon. Mr. LYNCH-STANTON: If you were to strike out this whole clause, the appointment of a Member of Parliament would disqualify him from continuing to sit either in the House of Commons or in the Senate.

Right Hon. Mr. MEIGHEN: No, he would not accept an office of emolument under the Crown, he would accept an office of emolument under the railway company. I adhere to the suggestion that the first two paragraphs remain.

Hon. Mr. McRAE: I was in the West when this Bill was published and there was a great deal of meriment by the public generally with respect to this clause. I think some of you have experienced what I experienced last summer. It seems to be a pastime with a considerable percentage of our citizens to deride the members of this Chamber and the other House. It does seem to me that if we approve this prohibition we confirm what is being said about the members of both Houses. My own idea is that this section might well be left out entirely.

Hon. Mr. LYNCH-STANTON: I do not think it is well to have an active Member of Parliament on that board. Could not we accomplish the purpose in this way: Insert a clause that the taking of any such office in this railroad should have the same effect as taking an office of emolument under the Crown? Then a man might be appointed who was a Member of the House of Commons or the Senate, but he would have to give up his membership.

Hon. Mr. BEAUBIEN: We might defer to public opinion.

The CHAIRMAN: You said yesterday you did not care a hoot for public opinion.

Hon. Mr. BEAUBIEN: I do not when I am framing a matter of some importance, but when I am framing a matter of no importance I pay great deference to public opinion. We might concede the point in this way: Provide that on appointment a member of the Senate or of the House of Commons should not continue as such.

Hon. Mr. ROBINSON: Would you not accomplish that by leaving the clause as originally drawn, with the exception of the words "or within five years immediately then preceding has been." Then if a member of the Senate or of the House of Commons was appointed he could resign his seat.

The CHAIRMAN: It is getting close to time for adjournment, and perhaps we should leave over consideration of this important section until we resume. Before the committee adjourns, however, I want to know whether it is still intended that representatives of the railroad companies shall appear before us to-morrow. I have a telegram here signed by Mr. Hungerford saying that Mr. Fairweather will be here to represent the Canadian National. The House will adjourn to-night, I understand, over the week-end.

Hon. Mr. L'ESPERANCE: What is the use of hearing them now? We have accepted the principle of the Bill.

Hon. Mr. ROBINSON: They could give information that would be very valuable for us and for the public as well.

Hon. Mr. GRIESBACH: I am in favour of hearing them.

The CHAIRMAN: Would it be wise for me to send telegrams to the companies asking that their representatives be here on Tuesday morning next?

Some Hon. SENATORS: Yes.

The CHAIRMAN: I understand that the committee expects me to wire the two railway heads cancelling our previous invitation for representatives to be here Friday morning and asking that they be here on Tuesday morning.

Hon. Mr. DANDURAND: I think that Mr. Hungerford personally should be asked to come.

The CHAIRMAN: I am informed that Mr. Hungerford is in Florida, although the telegram I received is in his name.

Right Hon. Mr. MEIGHEN: Are honourable members agreeable to meeting again after the House adjourns this afternoon?

Some Hon. SENATORS: Yes.

The committee adjourned to meet again this afternoon after the House rises.

The committee resumed at 3.30 p.m.

On Section 5—Persons disqualified to be trustees.

Hon. Mr. GILLIS: I think that this particular clause might be pointed out as the weak spot in the recommendations of the Commission. In a sense it reflects on the integrity of a large number of people, and I do not see that it is at all necessary. I think that we could eliminate the entire section. There is no question about any particular member of the Senate or the House of Commons, but it also deals with a lot of men who may have been nominated within the last five years but who are quite capable of holding a position of this kind. I second the motion that the section be eliminated.

The CHAIRMAN: It has been moved by Senator Ballantyne, seconded by Senator Gillis, that this section be stricken out.

Hon. Mr. ROBINSON: I made the suggestion that the section be left as originally drafted. That eliminates the five years. Then, if a man wanted to resign from the Senate he could do so if it was desirable to appoint him. The five years was inserted at the suggestion of Mr. Meighen, but I am not quite sure that that was the intention of the Commission. If you leave it as originally drafted—

Right Hon. Mr. MEIGHEN: It means nothing.

Hon. Mr. ROBINSON: It carries out the wishes of the Royal Commission, and it does not do any harm.

Hon. Mr. PARENT: Not being a member of the committee, and not having the right to vote, I hate to interfere. It puts me in a very awkward position.

Hon. Mr. DANDURAND: You have the right to speak.

Right Hon. Mr. MEIGHEN: You speak a lot better than you vote.

Hon. Mr. PARENT: The people to-day believe that a man can be a very good judge even though he has left the House of Commons or a position in the pay of the Dominion of Canada, and I do not believe it is right to prevent such men for five years doing good service to the country. To my mind the country would not be prepared to say that after a man has been a candidate or has been elected a member of Parliament and has served three years or so he should withdraw from the public life or the service of the country. I believe this five years' restriction should be taken off.

Hon. Mr. BEAUBIEN: It seems to me that it is a sop to public opinion, when you think about it, and will not help at all. It is only a sort of concession to public opinion, and it seems to me that it is education in the wrong direction. Why should we justify and subscribe to members of Parliament being depreciated in public opinion? It seems to me there is no justification for it whatever. Is it not a fact that excellent nominations could be made either from the House of Commons or from this House. Why should public opinion be prejudiced against a man because he comes from either House? As has been very well said, our judges, many of whom are the product of public life, are pretty good men. My experience is limited to a large extent to practising before the courts of Quebec, but I think everybody will admit, even those who smile, that very often those who think they have extraordinary qualifications in judging public opinion know

nothing of the real condition of affairs. Now, if anyone wants to gauge public opinion in Quebec he will find that our people there trust our judges, and they are right in doing so. Nearly all those judges come from public life. Our Lieutenant-Governors in the same way have nearly all been active in public life. In short, nearly every appointment of any importance is filled by men prominent in public life. It seems to me, in the first place, this is not a clause that would help in assuring good nominations; in the second place, it is depreciating our men in public life, because it is tantamount to saying that we who have served our country are not fit for offices of this kind. For my part I could not subscribe to an admission of that kind.

The CHAIRMAN: Any further discussion?

Hon. Mr. DANDURAND: I suppose the suggestion was made simply because the commissioners wanted to ward off any political appointments. They were thinking of appointing trustees who would be free from political entanglements or bias.

Right Hon. Mr. MEIGHEN: Yes, that was the idea.

Hon. Mr. STANFORD: There are in this country to-day several hundred men receiving pensions for service overseas. Do they come under this clause?

Right Hon. Mr. MEIGHEN: I fear they would be out. I will not support the last paragraph, or the second last, or the third last. If it comes to a vote I will vote in favour of the section with the first two paragraphs. At the same time I wholly agree with the argument of Senator Beaubien, but I think it is worth while to refer the commission to this extent, knowing it will not do any harm, and in order not to leave us open to the charge of emasculating the Bill, which I see some newspapers are alleging we are doing now. Apparently they have never read the Bill and do not know what is in it.

Hon. Mr. CASGRAIN: Would the right honourable gentlemen consider that the Duff report might be regarded as the Ark of the Covenant, that we must not touch it or we shall die?

Right Hon. Mr. MEIGHEN: I am cosmopolitan enough to wish the senator along with me, but I will not go quite the length that he suggests. I would include the first two paragraphs.

Hon. Mr. DANDURAND: What was the original of that section?

Right Hon. Mr. MEIGHEN: The first bill brought down carried out the recommendation of the Duff report and said that no member or senator should be appointed, nor anyone who was in the public pay. Now, they did not mean what they said, because to carry out exactly what they said would mean nothing at all in respect of Members of the Commons and of the Senate, for such a member would simply resign his seat at three o'clock and be appointed at four. Therefore we decided, in order to get the clause in sensible shape for discussion, and to really carry out what the Commission intended, to put in this five-year clause saying that anyone who has been a Member of the Commons or of the Senate for five years should be ineligible, and we have said also that if a Member of Parliament is ineligible why should not a member of the Legislative Council also be ineligible. So everything is put in this form. The whole thing is illogical, but I would make a concession to the desire of the Commission by adopting the clause as it stands to the end of (b).

Hon. Mr. BALLANTYNE: I withdraw my motion. I am satisfied to adopt what Mr. Meighen says, the first two paragraphs.

Hon. Mr. DONNELLY: I think the clause itself is very objectionable in that it reflects upon all public men in Canada. I am not anxious that any member of the Senate or of the House of Commons should be appointed to the board, but I take the ground that the clause as it stands is a reflection upon our public men, and if we accept it we are giving sanction to the principle that men

in public life are in a lower class than business men. If Senator Ballantyne wishes to withdraw his motion I am willing to move that the clause be entirely deleted.

Hon. Mr. CALDER: I will second that.

The CHAIRMAN: Senator Ballantyne having withdrawn his motion for the deletion of this section—

Hon. Mr. DANDURAND: No, he limits his motion to the two first paragraphs.

The CHAIRMAN: Then there is an amendment by Senator Donnelly that the whole clause be deleted, and it is seconded by Senator Calder.

Hon. Mr. GRIESBACH: The form of political interference referred to in the evidence was pressure brought to bear on the managers of the railway by the Government and by communities. The appointment of Members of Parliament and so on was never visualized as being the cause of the trouble. I think the Duff report, which in other respects is a very good report, in this respect dabbled in something they knew nothing about. I prefer to strike it out altogether.

Hon. Mr. STANFIELD: I should like an answer to my question, Mr. Chairman.

Right Hon. Mr. MEIGHEN: The answer is yes, it would shut them out.

The CHAIRMAN: Any further discussion?

You have heard the motion of Senator Ballantyne that we delete all but the two first prohibitions. It is moved by Senator Donnelly, seconded by Senator Calder that we strike out section 5. The vote is on the amendment.

The result of the vote having been announced: Yeas, 9; nays, 9.

The CHAIRMAN: I gladly vote for the amendment.

Section 5 was struck out.

Hon. Mr. MURDOCK: Mr. Chairman, section 5 having been struck out, I move: That we substitute for section 5 a section to read as follows:

No person shall be eligible for appointment who at the time of any proposed appointment of a trustee or trustees under this Act is in receipt of a pension or retiring allowance from the Canadian National Railway or from the Government of Canada.

The CHAIRMAN: That would take in returned men.

Hon. Mr. MURDOCK: I did not particularly have in mind our soldiers, of course.

Right Hon. Mr. MEIGHEN: You might except those from your motion.

Hon. Mr. MURDOCK: Except military pensioners.

Right Hon. Mr. MEIGHEN: And naval pensioners.

Hon. Mr. MURDOCK: Let us be frank. You are entitled to know what I am talking about. The other day we had before us Mr. Ruel, and to some he gave a very enlightening address, but not to me. I know him; I know he could argue just as well to-morrow on the other side. He is drawing \$8,800 a year pension from the Canadian National Railway. Nobody can kid me into believing but what he is flirting with the possibility of a position when this is ironed out. I may be mistaken. I am against that sort of thing first, last and all the time. I think with the Canadian National Railway under the conditions of misfortune that are surrounding the railways and the people of Canada just now there should be no such pension of \$8,800 a year.

An Hon. MEMBER: \$10,000.

Hon. Mr. MURDOCK: No, \$8,800. He wanted \$10,000, but he did not get it. He has established a brand new legal firm. We do not want that gentle-

man or others in a similar position to become trustees of the Canadian National Railway.

Hon. Mr. CASGRAIN: If he foregoes his pension, what then?

Hon. Mr. MURDOCK: That is another question, and it is something I am not competent to deal with. I have in mind a number of eminent individuals who are drawing pensions from the Government or from the Canadian National Railways, yet are in affluent circumstances in other walks of life and doing well because of their former connection with the Government or the Canadian National Railways. I think that the present is not the time to perpetuate that kind of thing.

Hon. Mr. CALDER: It was news to me that Mr. Ruel is drawing a pension of \$8,800, but after all, I suppose he is only being treated in the same way as other officials of the Canadian National and the Canadian Pacific. I have always understood that if a prominent official in the Canadian Pacific retires because of age, or because he is forced out, that he is given a retirement allowance.

Hon. Mr. MURDOCK: I would not make a suggestion about the Canadian Pacific.

Hon. Mr. CALDER: May I ask why not?

Hon. Mr. MURDOCK: Because it is a private concern and it is dealing with private business.

Hon. Mr. CALDER: That is true, but there is a certain principle that has been adopted by all railways and by the government. Provision is made for a pension for employees who have served a certain number of years, in all these institutions. Now, the honourable gentleman has spoken as though Mr. Ruel had done something wrong, as though he is getting something that he is not entitled to, something that he has by some means or other arranged, a pension of \$8,800 out of the Canadian National.

Hon. Mr. MURDOCK: Oh, no.

Hon. Mr. CALDER: That is the impression I got from the honourable gentleman's remarks. I suppose Mr. Ruel is not enjoying anything that others who have occupied the same position are not enjoying.

Hon. Mr. FORKE: Is that practice going to be perpetuated? Mr. Ruel is a young man, and it seems to me absurd that he should be paid a pension of \$8,800 a year for the rest of his life.

Hon. Mr. MURDOCK: Thousands of men who have put in twenty-five and thirty years of service on the railroads have been turned adrift without anything to look forward to and without any allowance.

Hon. Mr. CALDER: The impression I got from the honourable gentleman's remarks was that he was singling Mr. Ruel out as one who had by some means been able to receive a special favour.

Hon. Mr. MURDOCK: Not at all.

Hon. Mr. CALDER: I am very glad that is not true. We may differ as to Mr. Ruel's ability, but I have had many contacts with him over a period of twenty-five years or so, as long as he has been connected with the Canadian National, and I must say frankly to this committee that I have a very high regard for his ability. If the Government in its wisdom should decide to ask Mr. Ruel to be one of the trustees, I would assume at once that any pension he is getting would disappear. That is what happens in other cases. For example, a judge who was drawing a pension was appointed as Lieutenant-Governor of the province of Saskatchewan and he immediately dropped his pension.

Hon. Mr. GRIESBACH: That is the rule.

Hon. Mr. CALDER: As soon as his term of office as Lieutenant-Governor has concluded, he will again receive his pension. If the Government saw fit to appoint Mr. Ruel to the board of trustees, there is no reason why the practice that applies throughout the service should not apply to him.

Hon. Mr. MURDOCK: But that practice does not prevail.

Hon. Mr. BEAUBIEN: Mr. Chairman, we are not discussing the principle of pensions, nor are we discussing Mr. Ruel personally. I understand Senator Murdock objects to a man who receives a pension from the Canadian National being appointed as a trustee, on the ground that he might be biased in the exercise of his duty. How could that be? He would be getting the money from the same company that he was serving. I could understand an objection being made to the appointment of a trustee who was receiving a pension from the Government, because we want to be very sure that trustees will not be subjected to political influence.

Hon. Mr. MURDOCK: But why are pensions or retiring allowances given in the first place?

Hon. Mr. BEAUBIEN: If we are going to discuss that we will be going far from this clause.

Hon. Mr. MURDOCK: Isn't it usually on the assumption that a man's life work at his chosen calling has been completed? But Mr. Ruel did not have to retire, he did not have to take his pension. He chose to take it under the regulations which permit retirement at sixty-five years of age, and he happens to be sixty-six. As a result of what we are doing here, and what we are going to do, thousands of men who have had from fifteen to thirty years of railway service are going to be turned adrift; we are not to blame for that, I know, but that is the fact. Let me give you a concrete example. Right here in the capital of Canada, in the Ottawa division of the Grand Trunk in 1923 there were 190 men classed as conductors on the seniority roster, but since 1929 there have been only 31, with only 27 regular positions. Some of those men who in 1923 were classed as conductors will never run a train again, I am sorry to believe. Are they as citizens of this country, and presumably taxpayers, entitled to any consideration? Are they not entitled to a gesture which indicates that the maximum pension or retiring allowance to a citizen of Canada under these abnormal conditions of depression should be \$5,000? That is all I have in mind.

Hon. Mr. BALLANTYNE: I would like to support Senator Calder. I am not a railwayman and never have been, but I do know that it has always been the policy of the railways to grant an allowance or pension to their key officers when they reach the age of 65, and retire from the service. Why should we object when such a custom has been in force for so many years with both railways? I have in mind an officer who retired from the C.P.R. only a few days ago. That gentleman, of course, will get the usual pension payable to a man who for a long term of years has discharged the responsibilities of that office.

Hon. Mr. CALDER: I would be willing to go this far with Senator Murdock, but the law does not provide for it: that no person shall be appointed as a trustee and continue to draw any pension that he has been or is receiving from the Canadian National. My present idea is that if he were appointed a trustee he should cease to enjoy the pension; I do not believe he should receive any double salary; but why should we pass a law that will prohibit the Government appointing a man who has had years of service and who is qualified for the position because he happens to receive a pension? Let him forego his pension.

The CHAIRMAN: Perhaps we have gone a little beyond the scope of the Bill. I do not blame Senator Murdock or anyone else for sticking in a wedge wherever he gets the chance. The pension system on the railways is a most intricate thing. After the amalgamation of the Canadian Northern I asked for information, and

they appointed a committee to establish a pension fund with all its accessories. They were several years at work, and I didn't get any Pension Fund Act before I went out of the Department. Speaking from memory, it was found that Canadian Northern hadn't any Pension Act. The Grand Trunk had one. The Inter-colonial had what was called a Provident Fund, to which the men contributed. Those are the difficulties. Then on top of that there is the further difficulty that unless you change the Railway Act the board of directors have power to make by-laws and full powers as to retiring allowances and superannuation. I think we had better drop this discussion for the time being; we can take it up a little later when someone has more definite information.

Right Hon. Mr. MEIGHEN: I would suggest that Senator Murdock have a look at clause 6 of the Bill. His purpose could probably be obtained by means of a short amendment at the close of that clause.

Section 5 was struck out.

On section 4 -Nominations and appointments to board to be vacated, etc. (reconsidered):

The CHAIRMAN: We dealt with an amendment to this section, but we did not dispose of the section itself. Section 4, you will remember, was referred to by Mr. Hanna and I think some other gentleman, both of whom preferred five trustees to three. We discussed this section and made some minor amendment to it, but the meat of it has not been discussed to-day. Do you wish to pass section 4, which provides for the appointment of three trustees?

Right Hon. Mr. MEIGHEN: We passed an amendment saying that the chairman should not be an officer of any other company except one in the system, but we did not pass the clause as amended. Now the committee should discuss, if they so desire, whether there shall be three trustees or more or less.

The CHAIRMAN: If I remember correctly, the memorandum presented by Mr. Phinney, the representative of the Maritime Provinces, suggested five instead of three. Mr. Hanna suggested five, and named the qualifications that each should have.

Hon. Mr. GRIESBACH: The labour delegation also suggested five.

Hon. Mr. MURDOCK: And Senator Dandurand will remember that he recommended an appointment from the ranks of labour.

Hon. Mr. DANDURAND: I was wondering if there were not some other human elements that we should bring in, like the farmers.

The CHAIRMAN: It is moved by Mr. Meighen that we adopt section 4, as amended.

Hon. Mr. McRAE: I notice that this section starts out by saying, "The Governor in Council may vacate all nominations heretofore made by the Board of Directors." I suppose if this Act goes through they will. Should not that be definite?

The CHAIRMAN: "May" means "will."

Hon. Mr. CALDER: Subsection 2 says:—

One of such trustees shall be their chairman. He shall devote his whole time to performance of the duties of his office.

I was just wondering, if the board is to be constituted of only three members, whether the job would not be big enough to require all three to devote their entire time to it. Why mention merely the one?

Right Hon. Mr. MEIGHEN: This question is of the very greatest importance. It will be remembered that the Maritime Provinces' petitioners took very strong ground in favour of there being not less than five trustees in order that there might be special representation from those provinces. They felt that any such

representation was in danger if there were only three, and that the Maritime Provinces were entitled to representation because of the peculiar position they have held in Confederation in relation to railways. The labour delegation also urged that there should be five trustees, and that one should represent labour. I am disposed to think that if one of the three represented labour they would be satisfied. But they did take the ground of urging five. On the other hand, it is a pretty substantial departure from the recommendation of the Commission to pass from three to five, because the Commission had in mind concentrating responsibility on the smallest possible number. I know from conversation with one of the commissioners who took a very active part that he would rather see one than five. The ground taken is that for proper business administration the narrower the responsibility the better. In that way it approximates the more to the management of successful concerns.

Another consideration is that if we make it five it is going to be exceedingly difficult to legislate at the same time what the chairman shall be responsible for every positive action taken. The spirit of the Bill is that the big central responsibility shall be on him, and that he must be of the type of man that can handle a tremendous enterprise of this kind. It is pretty hard to enact that a chairman shall be permitted to stand in the way of a majority vote of four out of five trustees. It is pretty extreme legislation.

Then, also, if we make it five we would have to amend other provisions of the Bill very extensively, and we would have to stagger five over a period. It has not been so hard to do it with three, but it will add to the complication to make it five, and have them all appointed for different periods. At least, all these clauses would have to be amended.

I think we ought to consider very carefully before we change that clause. I am in hopes we will be able to meet the Maritime Provinces delegation on what seems to me a very much more important phase of their contention; namely, that which incorporates in the Bill a recommendation of the fundamental necessity of east and west lines of communication and of preference in all the operations of the road to those lines. I think we can meet that desire of the Maritimes, and if so I am hopeful they will not press strongly that you change this from three to five. We have the clause in the Bill which does meet it. I would rather not have it discussed to-day, but I hope to be able to commend it to them.

The CHAIRMAN: What shall we do with section 4?

Some Hon. MEMBERS: Carried.

Hon. Mr. BEAUBIEN: Do I understand that the clause is amended by adding at the end, "and shall not be an officer or director of any company?"

Right Hon. Mr. MEIGHEN: "not be an officer of any company other than one within the undertaking."

Hon. Mr. BEAUBIEN: May I suggest this? Senator Murdock a moment ago said he would have no objection to appointments being made of a man receiving a pension, except one receiving a pension from the Canadian National Railway or the Canadian Government. But what about a man receiving a pension from the C.P.R.?

Right Hon. Mr. MEIGHEN: We would never appoint him.

Hon. Mr. BEAUBIEN: There you are. If you are looking for difficulties, it seems to me a case. You do not want a man on the Canadian National in the pay of the C.P.R., do you?

Hon. Mr. MURDOCK: No.

The CHAIRMAN: He could be a director of the C.N.R.?

Hon. Mr. BEAUBIEN: I think if you want to guard against anything there is what you can guard against.

The CHAIRMAN: It has been moved by Mr. Meighen that section 4 as amended be adopted.

The motion was agreed to.

On section 6—salaries:

The CHAIRMAN: Now we come to section 6. This will be number 5. You will notice there are several underlines beginning at subsection (3).

Hon. Mr. GRIESBACH: The last words of this section are, "he shall not be entitled upon any ground to any recompense or emolument."

Right Hon. Mr. MEIGHEN: I am changing that a little.

The CHAIRMAN: In section 6, which now becomes section 5, subsection (3) will be stricken out and there will be substituted for it a subsection that Mr. Meighen will move.

Right Hon. Mr. MEIGHEN: I would like to suggest the following in place of the present clause 6, which is to be numbered clause 5:

The Trustees shall be paid by the National Company such salaries as may from time to time be fixed by the Governor in Council, and if any trustee is in receipt of a pension other than a military or naval pension from the Government of Canada or from any railway company he shall not be entitled to a continuation of such pension during his tenure of office.

Hon. Mr. GRIESBACH: Why introduce the question of pensions at all? The practice of the government over a long period of years is well understood. If a man who has a pension is employed by the government at a higher salary than his pension, he loses his pension.

Right Hon. Mr. MEIGHEN: No, he does not. At least, that was not the rule.

Hon. Mr. GRIESBACH: For a long time it has been the rule that a man does not draw a salary as well as his pension. If a man is receiving a pension that is less than his salary, he will be paid the difference. And when you introduce military pensions there is another difficulty, because military pensions are of two kinds: service pensions and disability pensions. A service pension is in the same class as one that is paid to an employee who retires from a railroad. For instance, a man who has had forty years' service and retires at age sixty, is given a service pension, but that would not be a disability pension. Is it the intention to legislate with respect to service pensions or disability pensions?

Right Hon. Mr. MEIGHEN: Disability pensions.

Hon. Mr. GRIESBACH: That is not stated. Why not leave this pension matter alone? If the Government finds a particularly good man and wants to employ him, the question of whether or not he is receiving a pension should not be considered. If he is receiving a pension, it is something that he has earned, whether it is being paid to him by the government or a railway, and he should be allowed to keep it.

Right Hon. Mr. MEIGHEN: I do not think a trustee should draw a pension from any railway. It is unlikely that the Government will appoint as trustee a man who is drawing a government pension, but Senator Murdock thought some provision should be made in that respect and I am willing to put it in. But certainly a trustee should not draw a pension from a railway.

Hon. Mr. GRIESBACH: I do not see why a man who draws a pension from the Canadian Pacific might not prove a valuable officer.

Right Hon. Mr. MEIGHEN: Oh, you could not do that.

The CHAIRMAN: If he has passed the zenith of his usefulness to one company and is in receipt of a pension, do you think the other company ought to take him?

Right Hon. Mr. MEIGHEN: I move that the first part of clause 6, which will now be clause 5, read as follows:

The Trustees shall be paid by the National Company such salaries as may from time to time be fixed by the Governor in Council, and if any trustee is in receipt of a pension from any railway company he shall not be entitled to a continuation of such pension during his tenure of office.

And that sub-clause (3) be stricken out and the following substituted as sub-clause (2):

(2) Each Trustee shall be paid but one salary, and saving and excepting that and his right to prepayment or repayment of his proper expenditures made while engaged in and upon the affairs of National Railways, he shall not be entitled upon any ground to any recompense or emolument.

Hon. Mr. GRIESBACH: Do you not think it would be better to say that if a man who is in receipt of a pension is appointed as trustee he should forego his pension? Suppose a pensioned ex-officer of an English railway were appointed, for example. He would be drawing a pension under some arrangement that we could not control, but we could provide that he should forego his pension.

Right Hon. Mr. MEIGHEN: I think the wording is all right. It provides that a trustee who is, before appointment, in receipt of a pension "shall not be entitled to a continuation of such pension during his tenure of office." He would become entitled to it again when his tenure was completed.

The motion was agreed to.

On section 7—Vacancies:

Right Hon. Mr. MEIGHEN: Mr. Chairman, I move to amend clause 7 by striking out the words "in office" in sub-clause 5, and substituting therefor the words "to act," and by adding sub-clause 6 as it appears underlined on page 4, and sub-clauses 7 and 8 as they appear on page 9 of the amendments.

The CHAIRMAN: We will take them one at a time. It has been moved that the words "in office" be deleted and the words "to act" be substituted in their place.

The motion was agreed to.

Right Hon. Mr. MEIGHEN: Then I move to add sub-clause 6 as it appears on page 4 of the Bill.

The motion was agreed to.

Right Hon. Mr. MEIGHEN: Now I move that we add as sub-clause 7 the clause which appears on page 9 of the amendments:

(7) Whenever upon application of any Trustee or Trustees and reasonable notice in writing to the Attorney-General of Canada it shall be made to appear to the President of the Exchequer Court of Canada—

(a) by a Trustee applying, that by reason of his imminent absence out of Canada, or

(b) by any two Trustees, that by reason of absence out of Canada or other cause of incapacity—

a Trustee is to be or is temporarily unable to perform the duties of his office and, in either case, that for the operation of the provisions of this Act while such incapacity shall continue it is necessary that the office of the Trustee shall be assumed to be vacant, such President may by order or decree of his court declare that pursuant to this subsection of this Act the office of such Trustee shall for all the purposes of this Act except those of sections six and seven which relate to payment of salaries and appointments to vacancies, be assumed to stand vacant until the further

order or decree of such President or the occurrence of an actual vacancy in the office of the Trustee concerned.

The motion was agreed to.

Right Hon. Mr. MEIGHEN: I now move to add subclause 8, which reads:

(8) Such order or decree shall have effect according to its terms. It may be vacated by such President at any time upon application of the Trustee concerned, his co-Trustees or the Attorney-General of Canada, and upon such prior notice in writing, if any, to such persons, if any, as such President may approve or direct.

The motion was agreed to.

The CHAIRMAN: Now it is moved that section 7 be passed, as amended.

Hon. Mr. McRAE: There is one thing about this that strikes me as of very serious import, namely, that the remaining trustees are in a position, even in the case of a vacancy, to say who the new chairman will be. It is left in the hands of one or two trustees and is taken out of the hands of the Government. I think that is a pretty tall order. I would suggest that they should have the right to recommend, or the privilege of making a list, but I would not make it arbitrary.

Hon. Mr. CASGRAIN: Don't drag in the Government.

Right Hon. Mr. MEIGHEN: It is a pretty serious divergence from the recommendation. The idea was to get over the possibility of political appointments, and in the eyes of eminent members of the judiciary and high dignitaries and potentates of finance, that is exceedingly important. If we strike that out they will think that we are opening the door again to political appointments. It is quite true that the trustees might name one very respectable gentleman and a number of office boys of the age of 21, and in that way practically select their man.

Hon. Mr. BALLANTYNE: The Governor in Council could send it back.

Right Hon. Mr. MEIGHEN: No, they have no such power. They have to take the name from the panel. That is the Commission's idea of getting away from political appointments.

Hon. Mr. CALDER: How would it do to say that the panel should be selected by the remaining trustees and the chairman of the Board of Railway Commissioners, plus the president of the Exchequer Court? You would then have a body of at least four, and possibly five, who would prepare this panel. That might provide against a continuance of something like a family compact.

Hon. Mr. GRIESBACH: That is the solution. You enlarge the body that makes the panel and you get sound men on it.

Right Hon. Mr. MEIGHEN: There is a lot in that.

Hon. Mr. CALDER: I would let that feature of the section stand until we think it over.

Right Hon. Mr. MEIGHEN: We could create a nominating board and say that it shall consist of the remaining trustees, the president of the Exchequer Court and the chairman of the Railway Commission. They would select the panel of eight. We will have a clause on that by Tuesday.

Section 7 stands.

On section 8—Removal from office or reduction of salary:

The CHAIRMAN: This section reads:

No Trustee shall be removed from office, nor suffer any reduction in salary, during the term for which he is appointed, unless for assigned cause and on address of the Senate and House of Commons of Canada.

Section 8 was agreed to.

On section 9—When proclaimed direction and control to be vested in Trustees.

The CHAIRMAN: We will now take section 9:

9. When the Governor in Council shall proclaim in the *Canada Gazette* that he has vacated all nominations to the Board of Directors of the National Company and has appointed Trustees as by section four of this Act provided the said Board shall cease to exist and, by force of this Act and without more, the direction and control of the National Company and its undertaking shall be vested, subject to the provisions of this Act, in the trustees.

That is the first paragraph.

Some Hon. MEMBERS: Carried.

The CHAIRMAN: On subsection (2) of section 9—Trustees to have powers, etc., of former Board of Directors:

Now, subsection (2):

(2) The Trustees shall and may thereafter, subject to the provisions of this Act, have and exercise all the powers, rights, privileges and immunities, and perform and be subject to all the duties, responsibilities and restrictions, which now appertain to the Board of Directors of the National Company.

Some Hon. MEMBERS: Carried.

On subsection (3) of section 9—Trustees to be substituted for Boards of Directors of all Canadian companies within the undertaking of the National Company.

The CHAIRMAN: Now, subsection 3. Gentlemen, you will find on the first page of the amendments, Nos. 11, 12, 13 and 14. As amended this subsection 3 will read:—

At the same time, by the same force and without more, the Trustees shall become and be Trustees in the place and stead of and in succession to every Board of Directors of every other company in Canada which is comprised in the National Railways, and they may and shall, thereafter, subject to the provisions of this Act, have and exercise with relation to such other companies, respectively, the like powers, rights, privileges and immunities, and perform and be subject to the like duties, responsibilities, and restrictions as those already in this section provided for with relation to the National Company.

The CHAIRMAN: Shall that carry?

Some Hon. MEMBERS: Carried.

On subsection (4).

Right Hon. Mr. MEIGHEN: I move to strike out clause (4).

Subsection (4) stricken out.

Some Hon. MEMBERS: Carried.

Right Hon. Mr. MEIGHEN: I want to insert a new sub-clause (4). It appears as No. "H" at page 11 of the amendments—Inconsistent acts, orders and charters to be construed so as to conform.

(4) The National Act and all statutes, charters, letters patent and orders in council of Canada which relate to any of such companies in Canada shall, in so far as they may be inconsistent with the provisions of this section, be read in the light hereof and be construed so as to conform herewith.

The CHAIRMAN: Shall new subsection (4) be adopted as read?

Some Hon. MEMBERS: Carried.

On subsection (5):

The CHAIRMAN: Subsection (5) is amended by striking out the words "National Company and its undertaking" and substituting the words "National Railways." The subsection as amended will read:—

(5) Subject to the terms of this Act, and until otherwise provided or directed under its authority, every operation and service of the National Railways shall continue and be continued by all persons now concerned therewith as if this Act had not been passed.

Shall this subsection as amended be adopted?

Some Hon. MEMBERS: Carried.

On subsection (6):

Right Hon. Mr. MEIGHEN: Now I wish to move as sub-clause (6) the following, which appears as "G" at page 10 of the amendments:—Approval of His Majesty or of shareholders not required.

(6) No order, regulation, act, decision or proceeding of the Trustees shall require the approval of His Majesty or that of any shareholders of any company to which this section applies.

It merely puts His Majesty first instead of the shareholders. It is an order that becomes us better as subjects of the king.

Some Hon. MEMBERS: Carried.

Right Hon. Mr. MEIGHEN: I desire to make a slight amendment to the last subsection. Mr. Anderson of the Railway Department suggests that we insert "by-law" after "regulation" in the first line of subsection (6). It will then read:—

(6) No order, regulation, by-law, act, decision or proceeding of the Trustees shall require the approval of His Majesty—

and so on.

The CHAIRMAN: Shall the amendment carry?

Some Hon. MEMBERS: Carried.

Right Hon. Mr. MEIGHEN: I move that section 9 as amended be adopted. The motion was agreed to.

On clause 10:

The CHAIRMAN: This clause reads:

The Trustees shall appoint, on terms to be fixed by them, and with the titular rank of President, a person other than one of themselves to execute and perform, under and in consultation with them, the powers, authorities and duties of chief operating officer of the undertaking of the National Company, as such powers, authorities and duties shall be from time to time defined by by-law or resolution of the Trustees and committed for execution and performance. The President shall report and be responsible to the Trustees and to them alone.

Hon. Mr. McRAE: Mr. Chairman, the proposal is that there shall be three trustees, one of whom is to give all his time to the office, and it appears to me that it is possible that one of the trustees might be of such outstanding ability that he could be appointed as president also. Why should there be this restriction, that the president must be someone other than a trustee?

Hon. Mr. MURDOCK: The chairman of the board of trustees will have the power to veto any act of the president, even though the president might be acting

in conformity with the wishes of the other trustees. The whole thing seems to me to be altogether illogical, having regard to what is understood to be the regular practice in railway operations all over this continent. I think the words "other than one of themselves" might well be stricken out. We are trying to save some money, and the chairman of the board of trustees might be a big enough man to fill also the office of president. If one man were appointed to fill both offices, he could work in consultation with the other two trustees, and there would be a considerable saving of money. It seems to me that the kind of president that this Bill contemplates would be a figurehead.

Hon. Mr. GRIESBACH: He will not be the kind of president we have been accustomed to.

Hon. Mr. MURDOCK: The chairman of the board of trustees, who would have the power to veto the actions of the president, may not be an operating officer.

Hon. Mr. GRIESBACH: He probably would not be.

Hon. Mr. MURDOCK: All the more reason why the section should not be worded this way.

The word "titular" explains the position of the president.

Hon. Mr. CALDER: I do not know the exact meaning of that word. It seems to me that if we are going to select a man who is big enough for the job of president, he should be given the title.

Right Hon. Mr. MEIGHEN: The government does not select him but the trustees do.

Hon. Mr. CALDER: The government selects the chairman.

Right Hon. Mr. MEIGHEN: He is not to be known as the president.

Hon. Mr. CALDER: Why should he not be? He is the king pin, the big man on the job, and, as Senator Murdock has pointed out, the titular president is to be one of his understrappers. It seems to me an anomalous situation.

Hon. Mr. DANDURAND: Will the president not have to report to the trustees?

Hon. Mr. CALDER: Is it not an anomaly that the president of the road should have to do that?

Hon. Mr. McRAE: Why should we put this restriction on the trustees, preventing them from appointing one of themselves as president? Why not delete those words "other than one of themselves"?

Hon. Mr. MURDOCK: That is my thought, that those words should be stricken out. As I have already said, we are trying to save a little money for Canada here, and it may be that the chairman of the board of trustees will be big enough to handle the two jobs, in co-operation with the other two trustees.

Hon. Mr. COPP: He would report to whom?

Hon. Mr. MURDOCK: He would report to the trustees, to the other trustees.

Hon. Mr. BALLANTYNE: Mr. Chairman, is it not probable, in fact almost certain, that the chairman of the board of trustees will not be an operating railroad man? Will he not be chosen rather for his executive ability? I think it is quite right that the board of trustees should appoint an operating man as president, although he need not be called that,—he could be called general manager. I would be surprised if an operating man were appointed as chairman of the board of trustees.

Right Hon. Mr. MEIGHEN: I think the question at issue is pretty much one of titles. The board of trustees takes the place of a board of directors, and the chairman of the trustees will have a position analogous to that of the chairman of a board of directors. Apparently the Royal Commission thought that every railroad has a president, and therefore this road had better have one, but

really his duties are those of a general manager. He is to be selected by the trustees, just as ordinarily directors would select a general manager. I do not particularly object to the board of trustees having power to appoint one of themselves as president, because I know they never will take advantage of that power. For one thing, I do not think the trustees will be paid enough to enable one of them to act as president, even though he were qualified.

Hon. Mr. BALLANTYNE: And different types of men are required for the two jobs.

Right Hon. Mr. MEIGHEN: Yes. The function of the president is chiefly that of general manager, business organizer, and so on, and one of his most important duties will be to see that the general policy of the road is sound, especially in a financial sense. The reason the word "titular" is used, I suppose, is to indicate that the president is subject to the trustee board, and that he does not occupy the position usually occupied by a president on a board of directors. I do not think the president would object to the use of the word "titular," although it is not necessary, and if any good could be done by striking it out it might be advisable to do so.

The CHAIRMAN: Is there anything in the Railway Act which gives the president of a company powers which Mr. Hungerford as titular president would not have?

Right Hon. Mr. MEIGHEN: If there were it would have to bend to the provisions of this Act.

Hon. Mr. MURDOCK: Why not say:

The Trustees shall appoint on terms to be fixed by them, a president to execute and perform, under and in consultation with them, the powers, authority and duty of chief operating officer.

Right Hon. Mr. MEIGHEN: I will accept that.

Hon. Mr. MURDOCK: It takes out what will look to railwaymen like a farcical provision putting in a titular president.

Right Hon. Mr. MEIGHEN: His powers will not be enlarged in the least by leaving out the word "titular."

The CHAIRMAN: They are defined by this section.

Hon. Mr. CALDER: I still hold to my view that the chief operating officer or the general manager should not be the president. Where do you find that elsewhere in the railway world? Give me an instance of it.

Hon. Mr. MURDOCK: If you look up the time card of any railroad on this continent you will find the names of the chief operating officers, the name of the president, and so on down.

Hon. Mr. CALDER: Mr. Beatty is not the chief operating officer; Mr. Hays was not; Mr. Chamberlin was not. Go to the United States and take the railway companies there, and you will find that the chief operating officer, the manager or the general manager is never president of the road.

Hon. Mr. BALLANTYNE: Leave out the word "operating."

Hon. Mr. DANDURAND: I believe this clause was drafted with the idea that the trustees were appointing a general manager; the purpose was to appoint an executive officer whose real title is general manager, but they grant him the titular rank of president.

Hon. Mr. GRIESBACH: Having regard to the people below, you have to have a president.

Hon. Mr. CALDER: After all, when you look at the situation what will it be? For example, you have the board of directors of the C.P.R. Mr. Beatty is not

an operating man. He was a lawyer, brought up as one of the chief counsel of the C.P.R., and he was finally selected as president not because of his knowledge of operating but because of his executive and organizing ability. Chief executives are usually selected in that way. Here we have the same situation only in a smaller way; you have three instead of a dozen. We have all agreed that the board shall be small, but after all, the man who is going to sit on that job is a big executive, and everywhere else you will find that the chief executive officer is called the president. Why the chairman of this board should not be president I cannot understand. Why should you name the general manager of the system, who is under the board?

Hon. Mr. GILLIS: You want the chairman of the trustees to be named president.

Hon. Mr. CALDER: Sure.

Hon. Mr. GILLIS: And the operating man to be general manager.

The CHAIRMAN: After all, I cannot see what difference it makes in the running of the railway. When there is any real railway business to be done Mr. Hungerford and Grant Hall will get together.

As it is now ten minutes after five, I suggest that we adjourn till Tuesday morning at 11 o'clock.

The committee adjourned until Tuesday next at 11 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 8

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

Mr. Grant Hall, Vice-President, Canadian Pacific Railway Company.
Mr. S. W. Fairweather, Director of Bureau of Economics, Canadian National Railways.

OTTAWA
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PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1933

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

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Béland	McDonald (<i>Shediac</i>)
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Lacasse	Webster.
Lewis	

[Quorum 9]

THE SENATE,

TUESDAY, February 7, 1933.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A, intituled: "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 11 a.m.

Right Hon. Mr. Graham in the Chair.

Hon. Mr. CASGRAIN: Mr. Chairman, before we get under way I would like to say that in Montreal I have been asked to put a question to Senator Meighen, the leader of the Government in the Senate. It is this: Suppose this Bill is passed and the Canadian Pacific objects to it, what are you going to do? And my attention has been drawn to the fact that in an address before the Canadian Club at Toronto Mr. Beatty said that the members of the Royal Commission did not make the report that they really thought should have been made, because they feared that if they did so the House of Commons would not pass it. Now, would it not be very important for us to know what was the nature of the report that the Commissioners did not dare to make? And should we not have an explanation of why they took it upon themselves to foretell what the House of Commons would do? It would seem that some of these Commissioners should be brought here and questioned upon these matters.

Right Hon. Mr. MEIGHEN: Senator Casgrain asks what the Government will do if the Canadian Pacific objects to the measure that is passed by Parliament. The Government will be very sorry.

Hon. Mr. CASGRAIN: That is not doing much.

Right Hon. Mr. MEIGHEN: Senator Casgrain refers to a statement attributed to the President of the Canadian Pacific at Toronto, to the effect that the Commissioners stated there was another plan which they would have recommended but for fear that it would not pass the Commons. I was present at the meeting which Mr. Beatty addressed and heard no such statement made by him.

Hon. Mr. CASGRAIN: Well, the Montreal Gazette said that.

Right Hon. Mr. MEIGHEN: He just said that in his view the Commissioners had regard to political considerations in their report. The Commissioners have not said so.

Hon. Mr. FORKE: I think it is a very serious reflection upon the Commissioners to imply that they made a statement to Mr. Beatty different from that which they made in their report. The report that we have before us is the statement of the Commissioners, and I do not see what right anyone has to read between the lines and say that they meant something different from what they said there.

Hon. Mr. CASGRAIN: It is said they had something better up their sleeves.

Hon. Mr. FORKE: What right had they to have something up their sleeves?

Hon. Mr. CASGRAIN: That is what I am asking.

Hon. Mr. FORKE: I think it would be an insult to ask them to come here to be questioned on such a point.

Hon. Mr. CASGRAIN: It would be an honour to ask them to appear before us.

The CHAIRMAN: Of course, this discussion is all out of order, but we have not been holding the committee within the strict rules of procedure.

Hon. Mr. MURDOCK: I hope, Mr. Chairman, that you will come back to this when we are in order, because we have some extracts from the Royal Commission's report that will deal with these particular matters that have been discussed.

The CHAIRMAN: When we come back to the Bill we shall be back to the Commissioners' report, on which the Bill is founded. At present we have some gentlemen here whom we asked to appear this morning, and we will hear them first. Are there representatives of the Canadian Pacific here? (Mr. Grant Hall stands). And are there any representatives of the Canadian National? (Mr. S. W. Fairweather stands).

These gentlemen have been asked to come here. I think I will not be going too far in saying to them that we will not insist on their answering any questions that they may think it inadvisable to answer. As I understand it, we want to get a general idea of what progress has been made and can be made in co-operation. Whom shall we hear first?

Some Hon. SENATORS: Mr. Hall.

The CHAIRMAN: I will now ask Mr. Grant Hall, Vice-President of the Canadian Pacific Railway, to come up here at the front table. Do you wish to make a statement, Mr. Hall?

Mr. GRANT HALL: I will do anything you wish, Mr. Chairman.

The CHAIRMAN: Perhaps it would be better if you made a short statement.

Mr. HALL: Mr. Chairman, I was just thinking that, if I may, I would like to draw your attention to what you asked the representative of the Canadian Pacific to come here for. You wanted us to inform the committee what had been accomplished by way of voluntary co-operation, as suggested by the Senate resolution of the 25th of November last.

The CHAIRMAN: Maybe that is too restricted. I think that is really what we did want to find out, but if you have made some progress in co-operation outside of anything suggested in that resolution, we will be glad to hear it.

Mr. HALL: I suppose, Mr. Chairman, the committee will agree with me that you gave us a pretty heavy job on the start. However, Mr. Beatty and Mr. Hungerford, the two executives, got together and formed a committee of executives—of which I am one, for the Canadian Pacific Railway—and they also formed what we will call a co-operative committee that would do all the spade-work and go into all the different problems that presented themselves and lay that before the executive committee.

We first started off with a study of four particular points, which I do not think are of interest here, and we have also investigated, or are exploring, the possibilities of any co-operation, direct co-operation you might call it, between the two telegraph companies. I might say here that that naturally would have to be submitted to the executive committee which is composed of three from the Canadian National and three from the Canadian Pacific, and it will have to be passed on by that committee. I would just like to say that I think it would be perhaps very wrong, and the policy would be at least a doubtful one, for me to go on and describe how far we have gone; but I can say this: that the two co-operative committees, as well as the executive committee, have gone into this with an open mind, intending to carry out the instructions of the Senate, as they understand them. There are no petty subjects brought up, but they are working together thoroughly and will work together. I am not a member of that committee, but of the executive committee; but I think that Mr. Fairweather, who is a member of that committee, will bear that out.

Your body need not feel in the least disturbed about this matter not receiving proper and full consideration and results being arrived at if it is in any way possible; but I do not think—and I do not wish to be pressed to give any information—that it would be wise to give any detail as to how far we have gone.

Hon. Mr. CASGRAIN: But you have made some progress?

Mr. HALL: Yes, sir. We know a lot of things that we did not know before. I do not think I can say any more, Mr. Chairman.

The CHAIRMAN: Do you wish to ask any questions, gentlemen?

Hon. Mr. BEIQUE: When do you expect your committee will be able to report?

Mr. HALL: It is expected that the co-operative committee will report very shortly to the executive. Just the exact time I would not like to mention.

Hon. Mr. BEIQUE: When would this committee expect to have a report?

Mr. HALL: I should think a matter of a few weeks, anyway. I would not like to be definite on that.

Right Hon. Mr. MEIGHEN: Would you think it too much to give to the committee the general subjects, say three or four subjects, upon which you are acting and in respect to which you hope to make savings by mutual co-operation.

Mr. HALL: Several terminals.

Hon. Mr. BEIQUE: And telegraphs?

Mr. HALL: Of course that is another matter. But definitely we are investigating several of the terminals, both in the East and the West.

Hon. Mr. COPP: Have you got far enough to be able to give the amount that would be saved?

Mr. HALL: No, sir, we have not got that far.

Right Hon. Mr. MEIGHEN: Are you hopeful of doing anything in the way of utilizing each other's lines, and thereby avoiding certain mileage?

Mr. HALL: That was always in the proposition before the Transportation Commission. I presume that will be gone along with, but we are not definitely talking about that yet.

Hon. Mr. DANDURAND: We have been told repeatedly that there was no money in passenger service, that it stood as a loss to both railways, and that the profits were in the freight movement. Now, are you considering the possibility of pooling your passenger service, which would mean eliminating a formidable loss created through competition?

Mr. HALL: No, we are not considering the question of the pooling of passenger service. We have for some time been considering one service, and we have not got very far. It is a pretty heavy problem, and it does not seem that on this side of the water, at least, we know much about it, considering that in the United States there is only one pool being operated to-day as far as I know.

Hon. Mr. STANFIELD: You spoke a minute ago of your work in the East and the West. What about the central region?

Mr. HALL: I was speaking of my own line, which divides at Fort William for operating purposes. The Western zone extends from Port Arthur or Fort William to Vancouver and Victoria.

Hon. Mr. McRAE: As I read the report of the Royal Commission, some 1,600 miles of railway might be discontinued by mutual agreement under a proper plan of co-operation. What is your idea with regard to that?

Mr. HALL: Well, we are not far enough advanced. I would stand by the statement made by our president before the Transportation Commission. I would not go beyond that.

Hon. Mr. McRAE: Is your experience of the last two months in this effort towards co-operation such as to justify you in feeling that this 1,600 miles might be worked out?

Mr. HALL: I could not answer that question definitely or intelligently, Senator. Undoubtedly it was in the mind of everybody at the time the evidence was given before the Commission that there were certain lines that duplicated, so to speak. But we have not got into the detail of that.

Right Hon. Mr. MEIGHEN: Can you say how many terminals are under consideration?

Mr. HALL: Must I answer that, Mr. Chairman?

The CHAIRMAN: It is up to you.

Right Hon. Mr. MEIGHEN: Oh, no.

Mr. HALL: What difference does it make, Senator Meighen?

Right Hon. Mr. MEIGHEN: Not less than three, I presume?

Mr. HALL: Oh, no, not less than three.

Hon. Mr. MURDOCK: In the operating economies that you have had in hand for the past two months or more, do you not expect to secure the largest economies as the result of the lessened man-power that will be required in the handling of the railway as compared with the past?

Mr. HALL: I do not think that is a question that could be answered off-hand. We will have to try it. I suppose same amount of traffic will still exist.

Hon. Mr. MURDOCK: It would be handled by a lesser number of men under a co-operative arrangement?

Mr. HALL: Possibly.

Hon. Mr. MURDOCK: Is not that the largest part of your economies?

Mr. HALL: I do not know.

Hon. Mr. MURDOCK: Then, Mr. Hall, would you describe some other economies that might come from co-operation?

Mr. HALL: Fuel cost, trackage cost. Some of the economies might lead to a question—Did you say labour cost?

Hon. Mr. MURDOCK: Yes.

Mr. HALL: Some of the economies might lead to that. But that is opening a wide question. You are asking my opinion upon something I should like to see worked out, Senator Murdock.

Right Hon. Mr. MEIGHEN: Mr. Hall, suppose in your endeavour to effect an economy in terminals at a certain point, you are both agreed that a large economy can be effected, but you cannot agree upon the terms upon which to effect it; you come to the conclusion that the Canadian National officials are unreasonable in asking the Canadian Pacific to do too much and to get too small a share of the resultant benefits. Would you not like to have a tribunal in which you have confidence to decide on a matter like that rather than drop the proposal forever?

Mr. HALL: I would sooner trust my executive.

Right Hon. Mr. MEIGHEN: What about the other executive?

Mr. HALL: The same thing.

Right Hon. Mr. MEIGHEN: Suppose you got nowhere?

Mr. HALL: Then something would have to be done.

Right Hon. Mr. MEIGHEN: I would think so.

Mr. HALL: But that is a long way from an arbitral board.

Hon. Mr. LYNCH-STAUTON: You say you would rather leave it to the two executives?

Mr. HALL: Yes, sir. I am speaking for myself.

Hon. Mr. LYNCH-STAUTON: I understand.

Hon. Mr. DANDURAND: Mr. Hall, you spoke of statements made before the Transportation Commission, you mean the Royal Commission?

Mr. HALL: We call it that, sir—the Duff Commission.

Hon. Mr. DANDURAND: Were detailed statements made by the two railways of what could be effected to reduce expenditure?

Mr. HALL: I cannot answer that, sir. They would be on the file if there were any.

Hon. Mr. CALDER: Can you give us any idea as to the time in which fairly large economies would be effected? You have been at it now for two and a half months. Within, say, six months do you expect to effect very large economies?

Mr. HALL: We should have some results for the work we are doing.

Hon. Mr. CALDER: Some results?

Mr. HALL: Yes, sir.

Hon. Mr. CALDER: The proposition put before us is that in so far as the Canadian National is concerned we must try and get large results.

Mr. HALL: Yes, sir.

Hon. Mr. CALDER: And if I understood Mr. Beatty correctly, he is very anxious to secure large results.

Mr. HALL: Yes, sir.

Hon. Mr. CALDER: When I say large results I mean some millions.

Mr. HALL: Yes, sir.

Hon. Mr. CALDER: Can we look for that within, say, a period of six months?

Mr. HALL: Well, that is a little too definite an answer for me to give, Senator Calder; I do not care to. But I can assure you all of this, we are working just as hard as we can to produce them, but you will appreciate there are a good many wrinkles we have to iron out.

Hon. Mr. CALDER: I presume in so far as economies within the system are concerned that the railway companies during the last two or three years have just about gone the limit? I am speaking now of the economies for example that the C.P.R. itself, without any co-operation with the C.N.R., has effected in its own system on account of the conditions existing in the last two or three years. I presume you have gone about as far as you can in that direction?

Mr. HALL: I would not even like to say that, senator. I have thought two or three times in my official life and experience that I had gone very far, but I have gone even further than that.

The CHAIRMAN: Any more questions to Mr. Hall? Have you anything you wish to ask, Mr. Hall?

Mr. HALL: No, sir.

The CHAIRMAN: Thank you, Mr. Hall.

Who will represent the C.N.R.?

Mr. S. W. FAIRWEATHER, (Director, Bureau of Economics): I will.

The CHAIRMAN: Gentlemen, you heard what we said to Mr. Hall, representing the C.P.R., concerning the information he should give. We want to get all the information we can, but the committee will not crowd any answers that the representatives of the roads think would be unjust at the present time and perhaps retard rather than advance their work.

What is your position?

Mr. FAIRWEATHER: Director of the Bureau of Economics of the Canadian National Railway.

Right Hon. Mr. MEIGHEN: How long have you had that?

Mr. FAIRWEATHER: Since 1923, but prior to that it had existed as a nucleus for the advice of the Department of Railways and Canals, and particularly it had charge of the Grand Trunk arbitration.

Hon. Mr. LYNCH-STAUNTON: What is the Department of Economics?

Mr. FAIRWEATHER: The Department of Economics is perhaps a misnomer. It would be more correct to say that the Bureau of Economics is an investigational department which is at the command of any department of the railway to make special investigations. Those investigations may be financial, they may be engineering, but in fact they cover practically every operation of the railway.

Hon. Mr. BEIQUE: All the activities?

Mr. FAIRWEATHER: All the activities—Special investigations. In one form or another you will find every large railway system has some organization like that. In our case the head is called the Director of the Bureau of Economics. In other companies the head of such a bureau is sometimes called the technical assistant to the president, and I think that describes the thing fairly correctly.

Hon. Mr. DANDURAND: Advising as to efficiency?

Mr. FAIRWEATHER: Advising as to efficiency and as to details of policy, and things of that character.

Hon. Mr. LYNCH-STAUNTON: And expenditures?

Mr. FAIRWEATHER: And expenditures, in fact everything.

The CHAIRMAN: Mr. R. A. C. Henry was formerly head of the department.

Mr. FAIRWEATHER: He was the first head; I succeeded him.

The CHAIRMAN: Mr. Grant Hall has told us that you were the member of some board carrying on some co-operation. What board is that?

Mr. FAIRWEATHER: I am Chairman of the C.N.R. section of the Joint Co-operative Committee of the two railways. As Mr. Grant Hall told you, the directors and chief executives of the two companies met jointly and organized a small committee of the directors, consisting of three each, and they in turn nominated a committee of technical officers of the two companies, three from each company. I am the Chairman of the C.N.R. section. The other two members of my section are Mr. D. C. Crombie, who is the chief of transportation, and Mr. Czowski, who is the chief engineer of construction.

The CHAIRMAN: Who are on the C.P.R.?

Mr. FAIRWEATHER: Originally there were Mr. Humphries, assistant to Mr. Grant Hall, Mr. Leslie, Deputy Comptroller, and Mr. Armstrong, whose title, I think, is Assistant Chief Engineer. I am not quite certain as to that.

Right Hon. Mr. MEIGHEN: It is the technical committee of the C.P.R. that you have just given us?

Mr. FAIRWEATHER: Yes.

Right Hon. Mr. MEIGHEN: Who are the C.P.R. committee that named them?

Mr. FAIRWEATHER: Mr. Beatty, Mr. Grant Hall, and I believe Mr. Tilley.

Right Hon. Mr. MEIGHEN: Who is the chairman then of the corresponding C.N. committee?

Mr. FAIRWEATHER: That would be Mr. Hungerford. He has associated with him Mr. Labelle and Mr. Morrow.

Right Hon. Mr. MEIGHEN: And those six men appointed this technical committee?

Mr. FAIRWEATHER: They appointed the technical committee.

The CHAIRMAN: I think we understand fairly clearly now what Mr. Fairweather's position is. Do you wish to make any statement, Mr. Fairweather?

Mr. FAIRWEATHER: I do not know that I can add very much to what Mr. Grant Hall has said. We organized our committee. The Directors approved of the method of procedure and furnished us with a set of by-laws by which we could govern ourselves, and also furnished us with an agenda of subjects that we could investigate. We proceeded vigorously to investigate those subjects, but in order that we should not get too big a mouthful at once we thought that we should go at the thing in detail and establish by example the principles that should govern our investigations in the larger matters. Therefore we picked out say eight or ten samples of cases where we thought economies might result, and we proceeded to get the information with regard to them and to investigate whether or not there would be economies. The method of doing that was varied but generally it consisted in calling into consultation the officers of each company that had detailed information, which of course was necessary, and in some cases we asked such officers to organize themselves into sub-committees and jointly investigate projects and agree on the facts which could be submitted to us; then we in turn would review them, look at them in the light of policy, try to establish some equitable means of dividing the economies, and send our recommendations on to the committee of the directors.

I may say that the work of that co-operative committee, of which I am a member, has progressed very smoothly. We have not run into any snags, and the results of our investigations have been in line with our preliminary thoughts. That is, we took these subjects and investigated them and found that the results that we got in detailed form more or less substantiated our general views. We have not as yet made any report to the directorate, for the simple reason that we want to be sure; we do not want to go off half-cocked, we do not want to make a recommendation and find out later that it is unsound. We are thoroughly investigating the ground, but when we get the spade work done it is my opinion that much greater progress will be made. I am stating now my own views. We must establish the principles, the method by which we will attack the problem. And I can assure you, gentlemen, that it is a very difficult problem. Mr. Grant Hall has intimated that to you, and any technical railroad man will agree that it is a very difficult problem to investigate these matters and make sure of your facts. But we are doing that, and given time I am sure that we will get results.

The CHAIRMAN: Does anyone wish to ask Mr. Fairweather a question?

Hon. Mr. McRAE: You said that in considering this co-operation you were considering matters of policy. What other considerations are there besides mutual economy?

Mr. FAIRWEATHER: I may say that there is no other consideration. The co-operative committee had to decide that point almost at their first meeting, and they decided that for their guidance the sole test would be whether an economy would result, and it would not matter where the chips fell, whether the economy would result to the Canadian National or to the Canadian Pacific—the first thing to be established was the possibility of an economy. After that it was a matter of devising some means of dividing that economy equitably.

Hon. Mr. FORKE: Do you take into consideration the service?

Mr. FAIRWEATHER: Of necessity, sir. A railway is so vitally linked up with the community that it is absolutely necessary, in looking at an economic picture, to take into account the service rendered to the public. Otherwise you may get a paper economy and find out that the traffic has dried up.

Hon. Mr. LYNCH-STANTON: There was a remark made here the other day that struck me as rather extraordinary. It was said, with respect to competition, that 85 per cent of the traffic of each road originates with the road, and that the competition between the two roads was only in respect of the remaining fifteen per cent. What do you say to that?

Mr. FAIRWEATHER: I will express my opinion. At various times I have studied that matter and I would not want to vouch for that exact percentage, but it is undoubtedly true that if you define competitive traffic as that traffic which originates and terminates at common points, then I should say—and this is purely an off-hand guess—that about 35 per cent of the freight traffic, and possibly a little more of the passenger traffic, was competitive. But that is not the whole picture, by any manner of means, because the traffic of a country such as Canada is so complex that a movement that appears to be non-competitive may actually be competitive in a market sense. For instance, the Canadian Pacific may have a shipper on its line competing in a market with a shipper on the Canadian National line, and there is keen competition in that market, and if you widen the sphere of your definition of competition to include the whole traffic of the railway in its market relationships, then I should say that it is not true that such a percentage is non-competitive. Each railway will jealously guard the marketing of industries and shippers located on its own lines in a common market. Do I make myself clear?

Hon. Mr. LYNCH-STAUTON: I do not follow you. I understood the witness whom we had here the other day to mean that 85 per cent of certain traffic almost inevitably goes to the Canadian Pacific, and 85 per cent of certain other traffic to the Canadian National, and that the two railroads are competing for only 15 per cent.

Mr. FAIRWEATHER: Well, sir, my personal opinion is that the percentage is not over 65 per cent. And in the second place, I think those figures result from taking a very narrow definition of competition. Suppose you were a lumber merchant located on a line of the Canadian Pacific and you were trying to sell your lumber in New York. You are dependent entirely upon the Canadian Pacific, you are at their mercy for service and also, subject to the Board of Railway Commissioners, in the matter of rates.

Hon. Mr. LYNCH-STAUTON: Absolutely subject to the Railway Commission as to rates.

Mr. FAIRWEATHER: Suppose you have a competitor on the Canadian National line who also is trying to sell lumber in New York. Now, it is to the interest of the Canadian National and the Canadian Pacific, each of them, to foster in so far as they can the business of the company that is located on their rails. Consequently, they will extend to him such reasonable service as will warrant him in getting his products to market on time. And in that sense there is of course a wider competition.

Hon. Mr. LYNCH-STAUTON: I see what you mean. There is competition in keeping the business as well as in getting it, eh?

Mr. FAIRWEATHER: Quite.

The CHAIRMAN: If your arrangements, or those of the Canadian Pacific Railway, were such that the dealer on your line could get his product on the cars and shipped, and delivered in New York as quickly or more quickly than another man could, that would be a competition in service.

Mr. FAIRWEATHER: Quite. That is my point.

Hon. Mr. FORKE: Do the railways take any active part in finding a market for produce?

Mr. FAIRWEATHER: Quite. We have offices set up for that purpose.

Hon. Mr. CALDER: Take the case of all the wheat delivered to the railways in Western Canada. I think you will agree that that is one of the largest items in your traffic during the year. What percentage of farmers will travel an extra two or three miles to deliver their grain to either company? Offhand, I would say none. In other words, there is practically no competition as long as cars are available.

Hon. Mr. LYNCH-STAUNTON: He says they go to extra expense to give a better service even if there is not any chance of losing the business.

Mr. FAIRWEATHER: I would not say there is extra expense; I would not say it leads to extra expense. As a matter of fact, I think it leads to increased efficiency. Competition sharpens the wits of everybody along the line, and things are done more efficiently, and there is a mutual benefit. The shipper gets the benefit of improved service, and the railway gets the benefit of the keenness, and application to his job, of every man in the organization.

Hon. Mr. LYNCH-STAUNTON: Is there not a very large expenditure made under the head of soliciting business?

Mr. FAIRWEATHER: I can only answer that in this way: I made a comparative study of the cost of selling—

Hon. Mr. LYNCH-STAUNTON: Freight.

Mr. FAIRWEATHER: —freight and passenger service to a railway, and the cost of selling which the ordinary mercantile company is up against, and the comparison is all in favour of the railway. The railway spends—I think we spend somewhere in the neighbourhood of four or five cents out of the dollar in soliciting, together with the special service to the shipper.

Hon. Mr. LYNCH-STAUNTON: Four or five cents?

Mr. FAIRWEATHER: Of your total dollar of revenue.

Right Hon. Mr. MEIGHEN: That is quite a lot.

Hon. Mr. STANFIELD: Do you charge to railway expenses your hotels?

Mr. FAIRWEATHER: Hotel expenses are not in that.

Hon. Mr. BALLANTYNE: Isn't this discussion wide of the mark, Mr. Chairman?

The CHAIRMAN: Mr. Fairweather is quite willing to give you any information you want.

Hon. Mr. LYNCH-STAUNTON: That is an enormous amount of money.

The CHAIRMAN: Order, please. Wait till Mr. Fairweather answers the question.

Mr. FAIRWEATHER: I find that I was a little generous in the figure I gave. In the year 1930 we spent 3·48 cents on traffic.

Right Hon. Mr. MEIGHEN: Freight traffic?

Mr. FAIRWEATHER: Freight and passenger. Of our dollar of revenue we spent 3·48 cents in what you would call traffic service to the public.

Right Hon. Mr. MEIGHEN: Trying to get it?

Mr. FAIRWEATHER: Trying to get it.

Hon. Mr. LYNCH-STAUNTON: Does that include advertising?

Mr. FAIRWEATHER: That includes advertising, but mind you, sir, a good deal of that is not advertising or solicitation, but service to the shipper.

Right Hon. Mr. MEIGHEN: To get the business.

Mr. FAIRWEATHER: And also to keep him informed where the traffic is.

Hon. Mr. LYNCH-STAUNTON: Keeping them sweet.

Mr. FAIRWEATHER: Keeping them sweet, if you wish.

Right Hon. Mr. MEIGHEN: Does that include downtown offices?

Mr. FAIRWEATHER: Everything. And when you compare that with a mercantile concern, for instance, you will find that their figures run anywhere from ten to forty per cent, depending on what the business is.

Hon. Mr. STANFIELD: No, no, you are wrong.

Mr. FAIRWEATHER: On the top limit, take specialties; take patent medicines.

Hon. Mr. LYNCH-STAUNTON: But they are putting over something that it costs money to put over.

Mr. FAIRWEATHER: Take General Motors, for instance. Their advertising budget would cover, I think, somewhere better than eleven or twelve per cent of their total revenue.

Hon. Mr. LYNCH-STAUNTON: Why do you compare two different ideas?

Mr. FAIRWEATHER: I simply point out that railways in general—and this is a general thing, it does not apply to the Canadian National alone—spend far less on what is called development work and solicitation than ordinary industry does.

Right Hon. Mr. MEIGHEN: They are a utility.

Mr. FAIRWEATHER: Of course, they are a utility.

Hon. Mr. L'ESPERANCE: Have you figures showing the comparison with other railways?

Mr. FAIRWEATHER: Quite.

Hon. Mr. L'ESPERANCE: They would be interesting.

Mr. FAIRWEATHER: Our traffic expenses are almost exactly in line with the average expense of the railways of the United States, but considerably less than the C.P.R., very considerably less. The reason for that, I may say, is that the Canadian Pacific in addition to running a railway run a great steamship organization, and consequently their traffic expenses are higher than ours.

Hon. Mr. LYNCH-STAUNTON: How do you compare with the English railroads?

Mr. FAIRWEATHER: Of course in England they do not keep their accounts the same way, and their organization is not the same.

Hon. Mr. LYNCH-STAUNTON: But they spend the money in the same way.

The CHAIRMAN: But you cannot get at it in statistics?

Mr. FAIRWEATHER: It is very difficult. In England their organization is different, and the thing they call traffic expenses we absorb in operating expenses, and it is really quite difficult to make a comparison.

Hon. Mr. CASGRAIN: Could you tell approximately what proportion of your receipts are from the transportation of wheat?

Mr. FAIRWEATHER: I am not sure. If I had a little time I could look that up and let you have it.

Right Hon. Mr. MEIGHEN: Are you hopeful that something like the measure of economy that must be achieved if we are going to continue the two systems will be achieved?

Mr. FAIRWEATHER: Would you like my personal view?

Right Hon. Mr. MEIGHEN: After all, a few little things here and there are not going to achieve the result.

Mr. FAIRWEATHER: Well, all I can say is this, given a determination to really go after economies, I think there are very substantial economies to be made in this manner. That is my personal opinion. Of course, Mr. Hungerford is in agreement with that. I know I am speaking for Mr. Hungerford in that regard. He is of the opinion that very substantial economies can be effected by co-operation.

Right Hon. Mr. MEIGHEN: You are in a position to estimate this year's results perhaps. I know there has been an estimate made in your organization. I understand you look for even worse results than last year; do you?

Mr. FAIRWEATHER: That is for the year 1933?

Right Hon. Mr. MEIGHEN: Yes.

Mr. FAIRWEATHER: Of course, the results to date show a decline from last year, but we feel that we are down pretty well to rock bottom in this country so far as production is concerned, and that as the year goes on there should be an improvement. That is our view. As a matter of fact in budgeting for next year—of course it is purely tentative at this time—we are budgeting on the same revenue as we had last year.

Right Hon. Mr. MEIGHEN: You realize then that the economies that have to be effected are very, very great?

Mr. FAIRWEATHER: They are as great as can be effected and maintain an essential service to the country.

Hon. Mr. LYNCH-STAUNTON: Is the feeling of the C.P.R. anything like your own about the future economies?

Mr. FAIRWEATHER: I hardly think that is a fair question, sir.

Hon. Mr. LYNCH-STAUNTON: I mean after having been in consultation with them.

Mr. FAIRWEATHER: I will say this—and I wish to give this in all fairness to the members of the co-operative committee that represent the Canadian Pacific—I have found them every bit as eager for co-operative economies as the Canadian National representatives.

Hon. Mr. LYNCH-STAUNTON: That is what I want to get at.

Hon. Mr. ROBINSON: This co-operative committee has been appointed for special work. Are you giving practically your whole time to this work now?

Mr. FAIRWEATHER: So far as the Canadian National is concerned, I can answer that myself, most decidedly not. I would just draw this to your attention. I think since the depression hit us in 1929 we have cut our operating expenses \$100,000,000 a year, and you do not start doing that without exploring every avenue. The net result of it is that this co-operative economy with the Canadian Pacific Railway is only a fraction of a program, and every day we are investigating opportunities for further reduction in expenses, cutting off unprofitable services and rearranging the work, making staff reductions wherever there is an opportunity of effecting an economy. That is the way that the \$100,000,000 saving was built up, and it keeps all of us pretty busy.

Hon. Mr. McRAE: Do I understand from that, Mr. Fairweather, that this has not been taken very seriously?

Mr. FAIRWEATHER: Far from it. I would not have you understand that at all. You asked whether we were devoting all our time to the work. The answer to that is no, but we are devoting a very considerable portion of our time, and I think quite satisfactorily. That is my answer. Mr. Grant Hall stated that it is not desirable to give details at this time, but he assured the senators that progress was being made, and I can confirm that.

Hon. Mr. STANFIELD: A word, Mr. Fairweather, about the reductions you have made in the official staff. During the War I think the traffic of the Canadian National was heavier than it has ever been since. I think I am safe in saying that the efficiency inspectors, a superintendent of this and a superintendent of that, have been going over the system every little while, that the men are getting sick of it. Are you making the same economies in reducing the official staff as you are in reducing the working staff?

Mr. FAIRWEATHER: Decidedly. I should say, in answer, that the official staff of the Canadian National Railway has stood even a greater brunt in this depression in the way of reduced salaries and reduced numbers than the average.

Hon. Mr. STANFIELD: I do not see it.

Mr. FAIRWEATHER: Well, we have cut our supervisory expenses by fully a third, the number of positions that have been abolished is very, very substantial,

and altogether I can only say what we call our supervisory expenses—which I presume is what you refer to—have been cut by a very substantial amount.

The CHAIRMAN: Any more questions?

Hon. Mr. MURDOCK: Mr. Fairweather, is it not a fact that in all of the cases where you have disconnected your supervisory forces from their positions they have been placed on pension, while that is not true in any respect of the working staff?

Mr. FAIRWEATHER: I will say this, I happen to have made a review of the pension situation only recently, and there is absolutely no discrimination in the application of the pension rules as between officers and employees. I can say that authoritatively because I have made a study of it.

Hon. Mr. MURDOCK: That does not answer my question. Is it not a fact that in nearly every case, if not in every case, where supervisory officers have been disconnected from their positions for the purposes of economy they have been placed on pension for the remainder of their life, while that is not so with engineers, firemen, conductors, brakemen, and telegraphers in many cases?

Mr. FAIRWEATHER: No, sir, the number of supervisory officers that have been dismissed from the service on a percentage basis without pension is fully as high as the average of the employees.

Hon. Mr. MURDOCK: I did not know that.

Hon. Mr. COPP: In your bookkeeping accounts prior to the amalgamation of the railways forming the Canadian National, take the Intercolonial as an illustration, can you give us a comparison of the freight that was carried on the Intercolonial prior to the amalgamation with what is carried now and also a comparison of the expenses of officials, labour, etc., during the two periods?

Mr. FAIRWEATHER: I could, sir, in a general way. Curiously enough I made a study of that thing.

The CHAIRMAN: Then this bureau is of some use.

Hon. Mr. STANFIELD: It is no use in building hotels.

Mr. FAIRWEATHER: We did not build any hotels. The answer to that question is rather involved, senator. You will recall in the pre-amalgamation days the railway situation in Eastern Canada consisted of the Intercolonial Railway and a large number of private jerkwater railways. Anybody who ever travelled on them knows what they were like. In any event, whether for better or for worse, those branch lines were purchased by the Government of Canada and placed in the eastern lines. The service on those lines was such that it just simply was called convenient; but I could not call it convenient. I know I travelled on one of those lines and the train went off the track four times in a little over sixty miles, and it took me nine hours to get to the end of my journey. The operation of the present eastern lines of the Canadian National includes all those branch lines, whereas in the previous period it did not. I wish to give credit to the men operating the eastern lines, in that they have shown a decided increase on operations, on their main line they handled business more expeditiously, and more cheaply, both for labour and material, than was done prior to the amalgamation; but the effect of that increased economy is obscured by the fact that the eastern lines are now burdened with those branch lines.

Hon. Mr. COPP: But you have not got the point that I had in mind. Can you tell us what the freight traffic is, or has been in the last few years, on the Intercolonial Railway and branch lines, compared with what it was prior to amalgamation?

Mr. FAIRWEATHER: Of course, the last few years are not a criterion.

Hon. Mr. COPP: You must bear in mind that a great many branch lines were taken over a long time prior to amalgamation. The Canada Eastern was taken over twenty-five years ago or longer.

Mr. FAIRWEATHER: The great majority of them, however, were taken over immediately subsequent to the war.

Hon. Mr. COPP: Maybe the great majority in number, but I do not think so in mileage.

Mr. FAIRWEATHER: My comparison was of the situation as it existed before those branch lines were taken in, leaving in the Canada Eastern. In fairness to the men who are operating the eastern lines, after making an analysis of their operations I had to give them credit because, as far as their main line operations were concerned they were doing a better job.

Hon. Mr. COPP: At a very much greater cost.

Mr. FAIRWEATHER: No, sir. Of course, it must be remembered that the price of nearly everything increased. For instance, in former years you could get a tie for thirty or forty cents, but on account of the larger size of locomotive that came into use, and one thing and another, we had to get hardwood ties, and they cost \$1.50 a piece. That makes a very great difference. And the price of coal more than doubled. Over and above that was the higher wages, owing to the increase in the cost of living. All these things have to be taken into account, but when you make a really fair analysis you see that the eastern lines are efficiently operated.

Hon. Mr. COPP: I was not suggesting that they were not efficiently operated, or making the least criticism of the present management; I was only asking for a comparison of costs.

Mr. FAIRWEATHER: If you leave out the branch lines, we actually improved the service. For instance, take the Matapedia to Gaspé line, the Kent Northern, and others, we improved the service on those lines, we gave a service where the trains would stay on the track, and that is not exaggeration. Well, now, that added to the cost, but I do not think it is fair to make comparisons with previous costs unless that is taken into consideration.

Hon. Mr. CASGRAIN: You do not mean to say that you have improved the road between Matapedia and Gaspé?

Mr. FAIRWEATHER: Yes, sir.

Hon. Mr. CASGRAIN: It was a great deal better when I was running it. I went down and inspected it on purpose.

Mr. FAIRWEATHER: It is a great deal better now than when we took it over.

Hon. Mr. CALDER: You said that when an employee was dismissed he received proportionately the same pension as an officer.

Mr. FAIRWEATHER: Oh no, sir. May I make this clear, that there are three pension schemes on the Canadian National. Am I taking too much time, Mr. Chairman?

The CHAIRMAN: No. We want you here to answer questions.

Mr. FAIRWEATHER: They are all governed by rules and have been approved by the Parliament of Canada, and they are uniform as regards men and officers. There is no discrimination, and the rules are not interpreted in any discriminatory fashion. There is one scheme down on the old Canadian Government railroad, where the men contribute one and one-half per cent, I think it is, of their salaries, and they draw a pension under certain specified conditions. That fund, by the way, is closed, and receives no new members.

The CHAIRMAN: That is the old provident fund?

Mr. FAIRWEATHER: Yes, the old I.C.R. provident fund. Then there is another fund, the Grand Trunk fund, a superannuation fund, where the men contribute two and one-half per cent and the company contributes a like amount. Pensions are drawn in connection with that under certain rules. That fund is also closed and not open to new members. Then there is our general pension

scheme, which was approved by Parliament about four years ago and which is non-contributory. Under it, an employee on reaching the age of sixty-five in service, and with certain other exceptions in special cases, gets one per cent of his best ten years' salary or pay for each year's service, so that if he has served thirty years he gets thirty per cent of his best ten years' pay.

The CHAIRMAN: Did the Canadian Northern have any pension system when it came in?

Mr. FAIRWEATHER: No, sir, the Canadian Northern had no pension scheme. The general pension scheme which was passed by Parliament was made applicable to the whole Canadian National, but it was itself the Grand Trunk non-contributory scheme which previously had existed. The Grand Trunk had two pension schemes when they were taken over by the Canadian National. One was their contributory system.

Right Hon. Mr. MEIGHEN: At two and one-half per cent?

Mr. FAIRWEATHER: Yes. That was closed. They closed it on account of differences with the men, who thought the company was making money out of it, and they put a non-contributory system in.

The CHAIRMAN: There are three entities in this system: The Government lines, the Grand Trunk and the Canadian Northern, and the membership for all is on the same basis?

Mr. FAIRWEATHER: Yes.

Hon. Mr. CALDER: Let us take a concrete case and try to get at the facts. Under the economies that you have been effecting, let us say that you found it advisable to drop an officer at the age of forty-five, who was getting a salary of \$5,000. He is simply let out in the interest of economy, and you do not expect to take him back. Now, what does he get?

Mr. FAIRWEATHER: Nothing.

Hon. Mr. CALDER: He would not get anything unless he had reached the retiring age?

Mr. FAIRWEATHER: No, nothing at all.

Hon. Mr. CALDER: If you drop any senior officer on account of economy, before he reaches the age of sixty-five, he gets nothing?

Mr. FAIRWEATHER: With one qualification, sir. The pension rules provide—and I am speaking now of the general fund—that with respect to a man who has reached the age of fifty in the company's service and who has had fifteen years of continuous service, if his position is abolished and is not filled, then it is in order, upon recommendation of the Board of Directors, to grant such a man a pension.

Hon. Mr. CALDER: And that will apply to the conductors, say, as well as to the officers?

Mr. FAIRWEATHER: Any man whose position is abolished. You see, the distinction is this. If his position was filled, he would not get it; but if his position was not filled then the board of directors in their discretion might grant a pension to that man.

Right Hon. Mr. MEIGHEN: How do they judge the amount?

Mr. FAIRWEATHER: Under the rules—one per cent for each year of service.

Hon. Mr. MURDOCK: Have you in mind any cases where officials of a number of years standing have been disconnected from their positions and removed from the service, or do they not usually revert to some other position from whence they came? I have in mind the names—

Mr. FAIRWEATHER: I have a number of friends who, unfortunately, have been shoved out without any compensation whatever, just the same as a man in the shop.

Hon. Mr. MURDOCK: So far as workmen are concerned—conductors, brakesmen, firemen, engineers, shopmen—is not seniority in service the determining factor, and do not the older men stay and do the work that has to be done while the younger men, who may have fifteen or twenty or twenty-five years, are out of work? They may be on the list to be called later.

Mr. FAIRWEATHER: Other things being equal, seniority is a very considerable factor in making staff adjustments. So far as it relates to our schedule employees, employees working under agreement, as you are aware it is a contractual obligation. That is, we are bound by our agreement to recognize seniority in this case, other things being equal.

Hon. Mr. LYNCH-STANTON: It is insisted on by the workmen themselves.

Mr. FAIRWEATHER: Certainly. It is part of the agreement.

Hon. Mr. MURDOCK: But the pension schemes are not in any shape being unduly hit by reason of the depression.

Mr. FAIRWEATHER: I do not think the pension schemes are being unduly hit.

Hon. Mr. MURDOCK: In certain cases have not officials been retired from the service because their positions were abolished, and given a pension for life?

Mr. FAIRWEATHER: Subject to that rule, sir, yes—the rule I told you about.

Hon. Mr. CALDER: Are there many of those?

Hon. Mr. BEAUBIEN: Are the funds that you speak of administered directly by the railway or by an independent board?

Mr. FAIRWEATHER: Well, it depends on the fund. The Intercolonial Fund, when there was actually money—of course it is bankrupt—was held in the consolidated revenue of Canada, and there was a committee consisting of the officers of the company, who were nominated by the Minister of Railways and Canals, I believe, and representatives of the men. That is the way that was administered. Then with regard to the Grand Trunk Fund, the contributory fund, there you have a concern that is solvent. They have their money under their own control. It is a democratic institution. They elect a board of directors, and the company has representation on that board of directors, but it operates the same as any company.

Hon. Mr. BEAUBIEN: Control is given to the people who might draw pensions?

Mr. FAIRWEATHER: Yes.

The CHAIRMAN: Now that account is closed?

Mr. FAIRWEATHER: Yes.

The CHAIRMAN: That organization?

Mr. FAIRWEATHER: It is just in process of being wound up. I think it was in 1908 that the Grand Trunk decided they were not going to admit any new members. I think there are now about 160, or something like that.

Then, the general fund is administered under the by-laws of the company, as provided in the Act, by the board of directors of the Canadian National Railways, and they in turn appoint a pension committee of the officers, but it is administered fundamentally by the board of directors.

Hon. Mr. CALDER: I would like you, if possible, to make it quite clear, if it is true, that there is no favoritism in the administration of this fund. Mr. Murdock in his statement rather indicated that he could give the names of people who were given pensions and who probably under this law should not get them. I want to know whether in the administration of that fund officers are picked out and favoured.

Mr. FAIRWEATHER: All I can say is this—we have members of our board of directors here—I investigated that situation to my satisfaction, and I can find no evidence of favoritism in the general application. Of course, I think I know the names, possibly, to whom Senator Murdock alludes; and I think they might be taken as very special cases.

Hon. Mr. LYNCH-STANTON: Generally speaking it is under Statute, and the Statute is obeyed.

Mr. FAIRWEATHER: It is obeyed as far as I can see.

Hon. Mr. MURDOCK: I am not charging favoritism particularly; but are not the seniority rules which the organizations have insisted on in the years gone by, beneficial to the Canadian National Railways now in ensuring that the senior men will be kept on while there is work to do and so long as they can work?

Mr. FAIRWEATHER: Do I gather that the point of your question is that the seniority rules are to the advantage of the railway?

Hon. Mr. MURDOCK: At the present time, under existing conditions, yes.

Mr. FAIRWEATHER: I would not put it "under existing conditions" at all. I feel that these seniority rules have both bad features and good features. I know instances both ways, but on the average I think those seniority rules, by giving in normal times a degree of harmonious relationship between the employees and the executive, are desirable.

Hon. Mr. MURDOCK: Put right now, in the matter of pensions, they conserve the right of senior workmen to stay on the job and work in preference to men junior in the service, who can go looking somewhere else.

Hon. Mr. GILLES: I think we are going very far afield in this discussion, Mr. Chairman. We have these gentlemen here to give us some idea what they are accomplishing towards economy, and here we are straying away and taking up the general policy of the railway company. We could go on for the next month or two and not be very much wiser.

The CHAIRMAN: There is something in what the senator says, but we discussed pensions here the other day, and almost everything else, in order to get at what we think is best in this legislation. I am inclined to think that perhaps we are straying a bit, but the object to be attained is economy, and the committee has been trying to find out—

Hon. Mr. MURDOCK: And we have a right to know where the money is going.

The CHAIRMAN: I am interpreting our right as widely as I can, Jim. Next thing we will want to ask what the fellow that got the money did with it.

Now, if you are all through asking Mr. Fairweather questions that are pertinent to the question of the economies being effected or about to be effected, we will excuse Mr. Fairweather. Perhaps he has given a lot of information that was not called for in the bond, but it is useful information, and I think it will help us come to a final decision.

Hon. Mr. McLENNAN: Mr. Fairweather, will this co-operative committee take up such economies as might be effected by the joint use of lines, by using a piece of the C.P.R. to reduce the freight haul by, say, a hundred miles rather than taking the cars all the way around by the National, or vice versa?

Mr. FAIRWEATHER: I would say the answer is decidedly yes, so far as the Canadian National is concerned.

Hon. Mr. McRAE: Do you feel that really marked economies can be worked out by this joint committee, and what would you regard as a reasonable time before those economies should become evident to all of us?

Mr. FAIRWEATHER: To the first part of your question, senator, I would give an emphatic yes. I think that large economies can be worked out. With regard to the second part of your question, I would say this, no matter what is attempted in the way of economies it is going to be a rather slow process. You cannot take an industry such as the railway industry that is vitally tied up with every activity in the country and quickly and suddenly disrupt it and change it into a new path. But I would say that once we get right down to brass tacks we should start and get results, as Mr. Grant Hall has said, in the matter of weeks, and after that, as I see it, admitting the principle of co-operation to its fullest extent, those economies would keep on and on and on and on indefinitely, and I should say that it would take at least five years before the major things we can see right now could be fully developed and explored. It has been the experience, for instance, in the Canadian National—we had a problem there and it was a very difficult problem—that we did not get that problem cleaned up for several years. The same thing is going to be true of this particular problem. It is a matter of time, but the economies will start and they will grow. That is all I can say. It is my personal opinion that they will grow to large figures.

Hon. Mr. McRAE: Is it too much, Mr. Fairweather, to expect that half the economies might be worked out in a year?

Mr. FAIRWEATHER: Yes, I think that is too much to expect in view of the complexity of the problem. That is not only my own view, it is the view, for instance, of everybody who has ever touched the problem. It does not make any difference how you attempt it, you are up against a time element and you cannot expect sudden things. Mind you, as time goes on these economies will grow, but just what could be accomplished in a year I am not at this time prepared to say, but when you say the figure of half, I will be honest enough with you and say I do not think it could be accomplished in one year.

Hon. Mr. L'ESPERANCE: Mr. Fairweather, do you think the appointment of an arbitral board would hasten matters?

The CHAIRMAN: That is a question of Government policy.

Hon. Mr. L'ESPERANCE: Do you think my question is out of order, Mr. Chairman?

The CHAIRMAN: When I suggested there might be some reticence on the part of members of the Canadian National Railway particularly, in coming before this committee, I had just such a question in mind. There is a bill before us introduced as a Government measure. I do not think we ought to take advantage of the presence of a gentleman who is an indirect employee of the Government to ask him to criticize Government policy?

Some Hon. MEMBERS: Hear, hear.

The CHAIRMAN: Government policy is before us on the question of this arbitral board.

Hon. Mr. LYNCH-STAUTON: It is not a Government policy.

The CHAIRMAN: It is a Government bill, subject to amendments; but the arbitral clause is one of the foundations of the bill. You could ask any person else that question, but I would not think you should ask an employee of the Canadian National Railway to give an opinion on the question.

Hon. Mr. BEAUBIEN: How long has your joint committee been at work, Mr. Fairweather?

Mr. FAIRWEATHER: We organized just about Christmas time.

Hon. Mr. BEAUBIEN: Since then you have been practically keeping at the job?

Mr. FAIRWEATHER: Quite.

Hon. Mr. BEAUBIEN: As much as you can?

Mr. FAIRWEATHER: As much as we can.

Hon. Mr. BEAUBIEN: Have you met any question at all that you have had to put aside because you could not agree on some method of treatment?

Mr. FAIRWEATHER: No. As I say, so far as the subjects that have been before the joint co-operative committee are concerned—and of course we have not yet pushed any of them to a conclusion—but so far as we have gone I can say that the attitude of the Canadian National Railway and the Canadian Pacific Railway representatives on that technical committee has been just as if they were dealing with one property.

Hon. Mr. L'ESPERANCE: Mr. Chairman, when this Bill was introduced into the Senate the leader of the Government there invited members to make suggestions for amendments and alterations, if such could be accepted. The Government Bill is based on the report of a commission appointed by the Government. The arbitral tribunal was suggested by the commission, not by the Government; the Government only implemented the report of the commission. We are here to try to find the truth and to learn which will be the best way to bring about the economies which we have in view. When I vote I for one should like to know the opinion of every one who is largely concerned with the administration of these railways. I think this question was put by the leader of the Government in the Senate to Mr. Grant Hall, and really I do not see why a high official of the Canadian National Railways should not be given an opportunity to state his views on the matter.

Right Hon. Mr. MEIGHEN: Gentlemen, it has been suggested that this is not a Government measure. The chairman has made a statement in regard to it, with every word of which I agree. It is a Government measure. As leader of the Government I do not think I would be in charge of a measure that was not a Government measure. It is true that in introducing it I endeavoured to intimate to the Senate that the Government did not feel itself tied so rigidly to all the features of the measure as it usually does in the introduction of a bill of this importance, and that the Government was prepared in the consideration of it to consider amendments of a vital character, even amendments going to the principle; but as the Bill proceeds and finally emerges it is a Government measure, with all the responsibility attaching to it that attaches to all Government measures. I have read in a newspaper that we are only testing something out, and that when we get through with the Bill we may just drop it. I do not know on what information such statements are made to the public. This is a measure intended when it emerges from both branches of Parliament to have all the authority and all the responsibility of the Government attached to it just the same as such authority and responsibility would attach to any other measure. In its consideration here if something is suggested which I think the Government cannot accept, it is my duty to say so. But it is a Government measure, as all measures in charge of a government member always are.

Now, with respect to whether the witness should answer the question put by Senator L'Esperance, the witness is in this position: The Government is the shareholder of this railway, it has appointed its directors and the witness is an employee of the railway and indirectly a Government employee. So far as I am concerned—and I will go further and say so far as the shareholders of the road are concerned, represented by the Government of Canada—he is at perfect liberty to give his view without any fear whatever attaching to himself with regard to it, no matter whether it is favourable or not. He may, however, not feel like doing so. If he does not care to do so, I can understand his reason; but if he cares to do so, so far as I am concerned I would be glad to have his view as to the question put, which I understand is this: Do you think in the ultimate working out of these economies by means of your committee an arbitral tribunal to decide differences would be beneficial or not?

The CHAIRMAN: The witness can suit himself whether he will answer or not.

Mr. FAIRWEATHER: Well, of course, I have views. I would not be a citizen of this country if I did not have views, but I hardly think that at this time I should be asked that question. I will say, however, that if anybody cares to read the evidence of the Royal Commission they will find that I gave an expression of views there.

Hon. Mr. SHARPE: On this question?

Mr. FAIRWEATHER: Yes, and I have not changed them.

Hon. Mr. SHARPE: What harm would there be in giving them a second time?

Mr. FAIRWEATHER: The difference is simply this, that the evidence before the Royal Commission was given more or less with the consent of my superior officer, and furthermore this Bill was not before Parliament then. I really think that I should be excused from answering that question at this time.

Hon. Mr. LYNCH-STAUTON: From repeating your opinion?

The CHAIRMAN: Is there any further question? If not, we will let Mr. Fairweather go. On behalf of the committee I thank you very much, Mr. Fairweather, for the interesting time you have given us. Does anyone else wish to speak for either railway now?

Hon. Mr. BEIQUE: Mr. Chairman, may I suggest that you, as Chairman of this committee, keep in touch with both Mr. Beatty and Mr. Hungerford and ascertain just when they will be ready to report on the effect of progress that has been made under co-operation.

The CHAIRMAN: It was as a result of being in touch with these two gentlemen that we had the evidence we have listened to this morning. I wired the heads of both railways, and their representatives were sent to us to-day.

Hon. Mr. BEIQUE: I can understand that Mr. Grant Hall and Mr. Fairweather may not be disposed to take the responsibility of answering the question to which I allude. The answer should come from the heads of both railways, I think.

The CHAIRMAN: Do you mean, Senator Béique, that the Chairman of this committee should ask the railways to keep the committee informed after we have finished our work on this particular problem? I think we should be through with our work on this Bill in a few days. Of course, it would be possible to ask the heads of the railways a little later on to give further information to the Senate, or to this committee, if essential, but I think that so far as this particular Bill is concerned our information is up to date.

The committee adjourned to resume after the House rises this afternoon.

The committee resumed at 4.50 p.m.

The CHAIRMAN: Gentlemen, when we adjourned the other day we were discussing clause 10. Amendment No. 19 is to be taken up now.

On section 10—Chief Operating Officer to be President, etc.:

Right Hon. Mr. MEIGHEN: Amendment No. 18 in the subjoined list of amendments has been passed. We come now to amendment No. 19, page 5 of the Bill, and page 2 of the amendments. I first of all move that what appears as subclause 2 of the Bill be now definitely inserted in section 10, and that there be added at the end the words:

—on behalf of National Railways as if they had been committed to him for execution and performance under this Act.

The motion was agreed to.

Hon. Mr. McRAE: May I inquire what our decision was with regard to titular rank the other day?

Right Hon. Mr. MEIGHEN: It was continued, senator.

Hon. Mr. McRAE: Apropos of that I looked up the definition of the word "titular" in the Oxford dictionary, where it is given as "that is, such in name only."

Section 10, as amended, was agreed to.

On section 11—Meetings. Majority votes ineffective unless the Chairman included in majority. Decisions out of meetings by concurrence:

The CHAIRMAN: It is moved that the word "they" be stricken out and the words "their Chairman" be substituted. The section will then read:

Meetings of the Trustees may be held at such times and places as their Chairman may from time to time determine.

Shall the section carry as amended?

Some Hon. MEMBERS: Carried.

The CHAIRMAN: Section 11, subsection (2):

The Trustees may decide or act at meetings only by unanimous vote or by majority which includes the Chairman. They or a majority so formed may without meeting decide or act by way of minutes or concurrence written and signed by them or by such majority.

It is moved that the letter "s" be stricken from the word minutes and that it be made minute.

Some Hon. MEMBERS: Carried.

The CHAIRMAN: The rest of this subsection is new:

When by reason of any vacancy among them (actual or assumed), there are only two Trustees, their decision, vote, minute or concurrence shall, for the purposes of this section, be deemed to be the unanimous decision, vote, minute or concurrence of the Trustees, and if the two divide in opinion the decision, vote or minute of the Chairman shall, for the same purposes, be deemed to be that of a majority of the Trustees.

You have heard, gentlemen, section 11 read as amended. Shall it be approved as amended?

Hon. Mr. McRAE: What is the idea of an assumed vacancy?

Hon. Mr. LYNCH-STANTON: There is a definition of it given afterwards.

Hon. Mr. McRAE: In that connection the absence of one member would not be a vacancy, would it?

Right Hon. Mr. MEIGHEN: If honourable members will refer to page 9 of the amendments and read the new form "F" which was inserted on page 4 of the Bill they will find it reads:

Whenever upon application of any Trustee or Trustees and reasonable notice in writing to the Attorney-General of Canada it shall be made to appear to the President of the Exchequer Court of Canada—

(a) by a Trustee applying, that by reason of his imminent absence out of Canada, or

(b) by any two Trustees, that by reason of absence out of Canada or other cause of incapacity—a Trustee is to be or is temporarily unable to perform the duties of his office and, in either case, that for the operation of the provisions of this Act while such incapacity shall continue it is necessary that the office of the Trustee shall be assumed to be vacant,—

That is where the assuming comes in.

—such President may by order or decree of his court declare that pursuant to this subsection of this Act the office of such Trustee shall for all the purposes of this Act except those of sections six and seven which relate to payment of salaries and appointments to vacancies, be assumed to stand vacant until the further order or decree of such President or the occurrence of an actual vacancy in the office of the Trustee concerned.

That makes clear why the word "assumed" has to be used here.

Hon. Mr. LYNCH-STAUNTON: The effect of the amendment, is it not, is that in the absence of one Trustee the Chairman is absolute.

Right Hon. Mr. MEIGHEN: Oh, yes.

Hon. Mr. LYNCH-STAUNTON: It is only absolute when there are two sitting.

Hon. Mr. DANDURAND: He must be one of the majority.

Hon. Mr. LYNCH-STAUNTON: If there are three sitting the Chairman with one controls; if there are two sitting, the Chairman controls.

The CHAIRMAN: But nothing can pass into action without the consent of the Chairman.

Hon. Mr. LYNCH-STAUNTON: But the Chairman controls except where the three are sitting, as far as I understand.

Right Hon. Mr. MEIGHEN: He controls in this sense—

Hon. Mr. LYNCH-STAUNTON: He cannot enact anything.

Right Hon. Mr. MEIGHEN: He cannot enact, but if there are only two sitting, and the Chairman votes, it resolves a deadlock. I do not think the mere absence of a member would be covered by this; there must be a vacancy, either actual or assumed. It must be absence due to an actual vacancy, or such vacancy as under the terms of clause "F", page 9, is to be assumed.

Hon. Mr. LYNCH-STAUNTON: I do not know whether it is right, but supposing a meeting of the board is called, and only two respond, would it be necessary for the Chairman in that event—because they need not meet at all, they can do it without meeting according to the provisions of this Bill, which is the same with every board of directors—would it not be necessary for any act where the other man is in Canada, to obtain the assent of at least one of the members for anything he wishes to put through?

Right Hon. Mr. MEIGHEN: Yes, unless there is a vacancy, actual or assumed. A vacancy is only assumed when it comes within the terms of Form "F."

Hon. Mr. LYNCH-STAUNTON: That is your interpretation?

Right Hon. Mr. MEIGHEN: Yes. When a vacancy occurs, suppose it is a vacancy, first, of the Chairman, then the other two meet, and the one longest in office, or the one whose term expired last, is the Chairman, and if one votes one way and the other the other, the Chairman rules. But if there is no vacancy, and the Chairman is merely absent, the man who is appointed Chairman of the Trustees, and the other two meet, then they could not under this section take any definite action.

Hon. Mr. LYNCH-STAUNTON: If one is absent?

Right Hon. Mr. MEIGHEN: If the Chairman is there his ruling would be final. If there is one Trustee absent and no vacancy, he is simply not there. Then there is no majority, nothing can be done against the Chairman, but he could not enact by his mere vote.

Hon. Mr. McRAE: Don't you think some provision should be made for that? Frequently it is almost impossible to get the third person present. There would be nothing done if he were not there.

Hon. Mr. LYNCH-STAUNTON: He can assent afterwards.

The CHAIRMAN: There is a section providing that decisions can be arrived at by correspondence if some member is absent.

Right Hon. Mr. MEIGHEN: The section we have just carried shows he can indicate his wish by telegram or by letter. If so, the Chairman could get it through even though that man was absent.

Hon. Mr. LYNCH-STAUNTON: But that is the only case.

Right Hon. Mr. MEIGHEN: That is the only case.

The CHAIRMAN: Shall section 11 carry as amended?

Some Hon. MEMBER: Carried.

On section 12—Annual budget. Submission to Minister of Finance prior to Parliament. Income deficits not to be funded. Votes not to be diverted.

The CHAIRMAN: I will read section 12:

The annual budget of the National Company and its undertaking shall be under the control of the Trustees. Amounts required for income deficits, for interest on obligations outstanding in the hands of the public, for capital expenditures and for refunding or retirement of maturing securities shall be submitted by the Trustees to the Minister of Finance for the consideration of the Governor in Council prior to presentation to Parliament. Income deficits shall not be funded. Amounts provided by Parliament to meet capital expenditures shall not be diverted to cover deficits in operation unless with the express authority of Parliament.

There is a small amendment to that.

Right Hon. Mr. MEIGHEN: I move that the words "National Company and its undertaking" in the first line be struck out and the words "National Railways" substituted.

Hon. Mr. LYNCH-STAUNTON: What is the meaning of "Income deficits shall not be funded"? What are you going to do about it if you have not got the money?

The CHAIRMAN: I think it is to compel them to raise the money in Parliament rather than attempt to carry it over under any other guise.

Hon. Mr. LYNCH-STAUNTON: Then they will have to borrow, and they will have to fund it.

The CHAIRMAN: But the railway company will not be allowed to fund its own debt. I imagine Parliament will have to pay the bill.

Right Hon. Mr. MEIGHEN: That is it.

Hon. Mr. McRAE: With regard to this provision for not funding the deficits, is it not equally important to provide that there should be a reasonable allowance for depreciation?

Hon. Mr. GRIESBACH: The Canadian Pacific does not provide for depreciation.

Right Hon. Mr. MEIGHEN: I would not like to go beyond the injunctions of the Commission. I think I read in the report that neither railway provides for depreciation.

The CHAIRMAN: There is a certain standard according to which the railways make their reports. I think if you will study that standard you will find that provision has been made for everything that is necessary.

The section was agreed to.

On section 13:

The CHAIRMAN: This section now reads:—

A continuous audit of the accounts of the National Company and its undertaking shall be made by independent auditors appointed annually by Parliament and annually reporting to Parliament in respect of their audit. Their annual report shall call attention to any matters which in their opinion require consideration or remedial action. They shall be paid by the National Company such amounts as the Governor in Council shall from time to time approve.

(2) Notwithstanding anything in this Act contained the now existing auditors of the National Company shall continue in office and perform their duties as such with relation to that company and its undertaking until their successors have been appointed under this Act and have commenced to perform their duties.

Right Hon. Mr. MEIGHEN: I move that the words "the National Company and its undertaking" in lines 3 and 4 be deleted, and that the words "National Railways" be substituted therefor.

The amendment was agreed to.

Right Hon. Mr. MEIGHEN: I move that the words "National Company" in line 12 be stricken out and the words "Canadian National Railways" be substituted therefor.

The amendment was agreed to.

Right Hon. Mr. MEIGHEN: I move that the words "with relation to that company and its undertaking" in lines 13 and 14 be deleted.

The amendment was agreed to.

The CHAIRMAN: I was going to ask a question, and probably Senator Meighen can answer it. What does "independent auditors" mean?

Right Hon. Mr. MEIGHEN: The meaning would be exactly the same if the word "independent" was not there. That is just a sort of compliment to the auditors, I suppose.

The section, as amended, was agreed to.

On section 14:

The CHAIRMAN: This section reads:—

The Trustees shall make a report annually to Parliament setting forth in a summary manner the results of their operations, *any co-operative measures, plans or arrangements effected pursuant to Part II of this Act, any economics or more remunerative operation thereby produced*, the amounts expended on capital account in respect of the railways, works, property, facilities and services comprised in the undertaking of the National Company and such other information as appears to them to be of public interest or necessary for the information of Parliament with relation to any situation existing at the time of such report, or as may be required from time to time by the Governor in Council.

Right Hon. Mr. MEIGHEN: I move that the words "Part II of" in line 20 be deleted.

The amendment was agreed to.

Right Hon. Mr. MEIGHEN: I move that the words "undertaking of the National Company" in line 24 be stricken out, and the words "undertakings of National Railways" be substituted therefor.

The amendment was agreed to.

Hon. Mr. STANFIELD: Mr. Chairman, I would like to ask if this applies to National steamship lines also.

Right Hon. Mr. MEIGHEN: The National Company does not own any steamship lines. They have certain steamship services but no ocean service. There are certain more or less coastal services, and they all come within the National Railways.

I move that all the words underlined in section 14, namely "any co-operative measures, plans or arrangements effected pursuant to this Act, any economies or more remunerative operation thereby produced," be adopted. They have merely been tentatively adopted so far.

The amendment was agreed to.

Right Hon. Mr. MEIGHEN: I move that this section be amended by adding a sub-clause (2) the following:—

The Trustees shall so direct, provide and procure that all freight destined for export by sea which is consigned for carriage to National Railways either at point of origin or between that and the sea shall, unless it has been by its shippers specifically routed otherwise, be carried wholly within Canada and exported through Canadian seaports.

Hon. Mr. McRAE: Does that mean abandonment of the National Railways connections at Portland?

The CHAIRMAN: It will mean that unless the shipper says his shipment is to go to Portland it will not go there.

Right Hon. Mr. MEIGHEN: It is suggested that the words "within Canada" be inserted after the word "consigned" in the third line of the proposed sub-clause (2).

Hon. Mr. LYNCH-STAUTON: Would this proposed new sub-clause conflict with any arrangements the railroads might wish to make. For instance, suppose it was arranged that the Canadian Pacific would carry Canadian National freight in certain instances, would this sub-clause prevent the freight being carried over the Canadian Pacific short-cut through American territory?

Right Hon. Mr. MEIGHEN: The question is if some co-operative arrangement were made whereby the Canadian Pacific would carry freight originating on the Canadian National, would the Canadian Pacific be free to carry it through their American territory? I should think they would, unless there is some law similar to this applicable to them.

Hon. Mr. LYNCH-STAUTON: I am not at all sure that the arrangement I suggest is in effect, but what I mean is this: Assuming that freight is routed from Winnipeg over the Canadian National generally, but that the Canadian National and the C.P.R. make a sub-agreement that they are going to have that carried by the C.P.R. is routed by the shipper over the Canadian National, but the two roads say "We prefer to take this by C.P.R." Would it be unlawful for them to take it over the short-cut?

Right Hon. Mr. MEIGHEN: In that case I should say the Canadian National would be re-routing the traffic; and if they re-routed it, I presume it would go that way.

Hon. Mr. LYNCH-STAUTON: Wouldn't that be in violation of that section?

Right Hon. Mr. MEIGHEN: No. It says "Unless specifically routed otherwise. If the shipper routes it through Canadian territory, I do not think the railway under this clause would have any power to re-route it.

Hon. Mr. LYNCH-STAUTON: That is the point. Is not that, perhaps, unwise? The man that routes it is the owner.

Right Hon. Mr. MEIGHEN: This goes the full length, I think, asked for by the delegates of the Maritime Provinces. It is not only a declaration of principle to the trustee board, but a specific direction.

The CHAIRMAN: Does not a short portion of the Canadian National run through Minnesota?

Right Hon. Mr. MEIGHEN: Yes.

The CHAIRMAN: They could not use their own line then?

Right Hon. Mr. MEIGHEN: Not unless it was routed that way.

Hon. Mr. McRAE: Am I right in assuming that the National Railways still own the line to Portland, Maine? That being the case, are we not tying the hands of the trustees unduly in saying how they are to make use of the property of the National Railways? I appreciate the objective that is sought.

Right Hon. Mr. MEIGHEN: We are in a way, but this has been pretty well recognized as Canadian policy. Honourable members will remember that it is included in the National Transcontinental Act.

Hon. Mr. LYNCH-STAUNTON: Then the C.P.R. cannot route with them.

Right Hon. Mr. MEIGHEN: I do not think the C.P.R. has any such obligation applicable to it. But we have the right to enact it.

Hon. Mr. LYNCH-STAUNTON: If it is routed by the C.N.R., if you say, "route by the C.N.R."—

Hon. Mr. CALDER: As regards that point, I would like to have the honourable gentleman read the section as I read it:

The trustees shall so direct, provide and procure that all freight destined for export by sea which is consigned for carriage to National Railways either at point of origin or between that and the sea shall, unless it has been by its shippers specifically routed otherwise, be carried wholly within Canada.

It shall be carried, not by the National, but shall be carried through Canada. If the Canadian National wishes to make an arrangement with the C.P.R. there is nothing to prevent that.

Hon. Mr. McRAE: The C.P.R. goes through the State of Maine.

Hon. Mr. MURDOCK: It is 481 miles from Saint John to Montreal by the C.P.R., and 739 by the C.N.R.

Hon. Mr. LYNCH-STAUNTON: I think the railways ought to be consulted about that section.

The CHAIRMAN: Of course, the object of this section is to bring about the use of Canadian ports and Canadian lines for all unrouted traffic.

Hon. Mr. LYNCH-STAUNTON: But if you let it go over the short-cut that would not defeat the intention. The intention is to ship it out of Canadian ports.

Hon. Mr. GRIESBACH: In any event won't the freight rates cure the trouble? The man who is shipping will inquire the rate.

Hon. Mr. LYNCH-STAUNTON: Not when it is to the port.

Hon. Mr. GRIESBACH: If he is shipping he will be asked by the agent what route he chooses, and he will say "What is the cheapest." It may be cheaper in certain seasons of the year to ship to Portland.

Hon. Mr. LYNCH-STAUNTON: The C.P.R. will carry as cheaply to Saint John by the short route as the others will over the long route, and this will not defeat the object desired.

Hon. Mr. McRAE: Based on the assumption that we wish by this Act to prohibit the trustees of the Canadian National Railways from using their property to Portland, Maine, I suggest that that can be accomplished by saying "shall be specifically routed so as to be carried and exported through Canadian ports." What you want is shipment from Canadian seaports, whether the traffic is carried over the C.P.R. through the State of Maine, or over the longer route.

The CHAIRMAN: That would cover the line in Minnesota as well.

Hon. Mr. ROBINSON: Oh, no. The Maritime Provinces do not want that. They want the money spent in Canada and the operation performed in Canada.

Right Hon. Mr. MEIGHEN: I should like to hear from the representatives of the Maritime Provinces on the point. What is suggested by Senator McRae and Senator Lynch-Staunton is that the words "carried wholly within Canada and" be struck out, so that it will read:—

All freight destined for export by sea which is consigned for carriage to National Railways either at point of origin or between that and the sea shall, unless it has been by its shippers specifically routed otherwise, be exported through Canadian seaports.

Hon. Mr. LYNCH-STAUNTON: Yes.

Right Hon. Mr. MEIGHEN: True, as stated by Senator Robinson, it is better that all should be shipped through Canada if that does not mean too heavy a burden of loss to the shorter route, which, while it goes through part of the United States, ultimately comes to a Canadian seaport.

Hon. Mr. LYNCH-STAUNTON: You will kill the business.

Right Hon. Mr. MEIGHEN: I do not know whether those who have so strongly urged this clause would feel that it met the purpose without those words or not.

Hon. Mr. DENNIS: Would it be possible to pass over this clause until we have an opportunity to confer with Colonel Phinney, who represented the province of Nova Scotia and the city of Halifax? It seems to me that this still leaves the matter in some doubt, because it is still in the hands of the shipper. I am wondering, in connection with grain shipments from the West, if a shipper specified that the grain was to be shipped to an American point, Buffalo, for instance, would Canadian ports be protected?

Hon. Mr. GRIESBACH: At the expense of the shipper from the West?

Hon. Mr. DENNIS: Yes.

Hon. Mr. GRIESBACH: No.

Right Hon. Mr. MEIGHEN: Buffalo is not a seaport. If the shipper directed that it be sent through Portland, then it would have to go through Portland. It has never been accepted in Canada that you can possibly limit a shipper as to the way in which he can get his goods to the market. We have never gone that far, and I think this clause goes to the full extent suggested by Mr. Phinney. What he wanted was a certainty that there would be a recognition by the new board of a principle which the old Intercolonial and the old Government railways recognized, namely that our great objective was to develop East and West lines of trade. He wanted a general direction to him. This goes certainly to that extent and amount to more than a declaration, I hope it is a very specific direction; but it does not go to the extent of saying that no man who wants to send his goods out through certain ports to perhaps South America, cannot do so by the shortest route if he specifically so directs. I am sure this Bill would be before the Senate for a long time before everybody could be heard who would want to be heard against refusing the shipper the right to direct his goods.

Hon. Mr. CALDER: In so far as what is concerned, is it not practically all consigned by the exporter? The farmer does not pay any attention to it. It is those who buy the wheat for export, those exporters, they know their business and are going to consign their wheat by whatever route they prefer.

Hon. Mr. FORKE: The farmer has his eye on this legislation.

Hon. Mr. CALDER: I am not saying he has not, but the individual farmer does not export his wheat to the seaboard. The exporter directs that his wheat should go forward wherever he pleases.

Hon. Mr. FORKE: We mean the same thing, but ultimately the farmer carries the cost of the transportation.

Hon. Mr. CALDER: Surely.

Hon. Mr. McRAE: Mr. Chairman, are we not in a measure arguing against the very objective we are endeavouring to reach under this Bill, that is, economy in railway management? Whether the National Railways—I think we can safely leave it to them—carry the freight to the seaboard over their long mileage, some 700 miles, or whether by co-operation they arrange with the C.P.R. to carry it the shorter mileage, it will be in the interest of economy, and that freight will leave a Maritime port. Then it seems to me we have accomplished the object, and we must leave it to the Trustees as to how they are going to work this out.

Right Hon. Mr. MEIGHEN: That is correct, senator, but you have to remember this, how Canada has been constituted and the price we have paid for Confederation. All that has been urged, and thoroughly urged, by Col. Phinney on behalf of the Maritimes. Even at some sacrifice we have always to recognize this principle and this tradition of our history. I would never go so far as to say the shipper cannot ship his grain as he wishes. In fact I think there is no question about this: Parliament has no power to restrain any farmer in Saskatchewan or in Manitoba; He can ship his grain by whatever route he wishes. All we can say to the railways, unless he ships his goods otherwise, is this: You must carry these goods over Canadian territory and through Canadian ports. It may be we do not gain enough by compelling them to carry it altogether over Canadian territory. It is not a great advantage to Canada, but I would be sorry to see the Committee interfere with this clause other than to strike out the words "carried wholly within Canada."

Hon. Mr. LYNCH-STAUNTON: I think the right honourable leader's suggestion is the one we should adopt.

Right Hon. Mr. MEIGHEN: I am prepared to delete "carried wholly within Canada and."

The CHAIRMAN: Gentlemen, listen to the amendment:

The Trustees shall so direct, provide and procure that all freight destined for export by sea which is consigned within Canada for carriage to National Railways either at point of origin or between that and the sea shall, unless it has been by its shippers specifically routed otherwise, be exported through Canadian seaports.

As amended shall that subsection 2 of section 14 carry?

Some Hon. MEMBERS: Carried.

Hon. Mr. ROBINSON: There seems to be no need to make that change. I do not think the C.N.R. will transfer any of their freight to the C.P.R.; they can carry it by the Transcontinental as cheaply because it has a much better grade.

Hon. Mr. LYNCH-STAUNTON: That ought to be left to the railway companies themselves.

Hon. Mr. ROBINSON: It seems to me that this being a Canadian institution we should carry all freight through Canada, and that the benefit of the money spent should be given to Canadian territory.

Hon. Mr. LYNCH-STAUNTON: I think the honourable gentleman ought to remember that time is very, very important to shippers, and if they found their goods or wheat were being carried, say, over a route which took from one to three days longer, they would be astute enough to ship it another way. I do not think you should hamper either of these railways, so long as you attain the end that you want to send the freight through a Canadian port.

Hon. Mr. ROBINSON: We are not interfering with the shippers at all. Instead of going by Portland I think it should go through Canadian territory all the way.

Hon. Mr. CALDER: My honourable friend is losing sight of the fact that I tried to make clear. We will assume there is 5,000,000 bushels of wheat ready for market; that wheat is in the hands of the exporters; the number of exporters is very small. They are very astute, capable men, they know all about routes, rates and everything of that kind, and they are going to route their grain, they are not going to leave it to the C.N.R. The C.N.R. may get some grain, a very small amount, probably five per cent of the total, which is not routed, and it is delivered to the C.N.R. for transit. It is that very small percentage of grain that must be carried under this clause through Canadian seaports.

Hon. Mr. LYNCH-STAUNTON: To my mind it would discourage routing it by the Canadian National. As the honourable senator says, these people know all about their business. They would say: If we ship the grain by the Canadian National we will have to go away around the bend and down through New Brunswick and Nova Scotia; we won't ship it that way, we will ship it by the C.P.R. and then it will go the shortcut.

Hon. Mr. MACDONELL: If you put in the clause "through all Canadian territory" you cannot ship the grain by the C.P.R. It cuts out Saint John altogether.

Hon. Mr. CALDER: If the shipper routes his grain by the Canadian National this clause does not apply. It is only where the shipper has not specifically routed his grain. But the shipper does specifically route his grain, and if he routes it it must go that way. I say again there is only a very, very small amount of the total quantity of grain that the shipper does not route.

Hon. Mr. LYNCH-STAUNTON: There is a great deal involved in the question of routing. If a buyer tells those from whom he purchases goods to send them by a certain ship, and they send them by another ship, he need not accept them. All these things enter into this question. You must not interfere with routing at all except to say that it shall go by a Canadian port.

The CHAIRMAN: If it is not routed another way.

Hon. Mr. LYNCH-STAUNTON: Yes. I do not think it is right to hamper the Canadian National in that way.

The CHAIRMAN: I will read this sub-clause (2) as amended:—

The Trustees shall so direct, provide and procure that all freight destined for export by sea which is consigned within Canada for carriage to National Railways either at point of origin or between that and the sea shall, unless it has been by its shippers specifically routed otherwise, be exported through Canadian seaports.

The sub-clause, as amended, was agreed to.

Hon. Mr. McLENNAN: Mr. Chairman, I would like to move an amendment.

Right Hon. Mr. MEIGHEN: Senator McLennan wishes to amend section 14 by adding certain words after the words "public interest" in line 26, having to do with the report which the trustees are to make.

Hon. Mr. McLENNAN: I move that after the words "public interest" and before the words "or necessary" in line 26 the following words be inserted:—

particularly in regard to changes in organization or otherwise by which in their opinion the railway systems of Canada can reach the highest possible efficiency

My purpose in moving this amendment is to emphasize the reporting by the trustees on questions of public interest. If trustees are appointed in accord-

ance with this Bill they will be going out into unchartered fields of enterprise, with respect to which fields there is great public interest. The public will be keen to know what has been discovered, and nobody will be in a better position than the trustees to reveal this. Therefore in my opinion they should be directed to bring before the public everything that they feel will assist in carrying out the intention of this Bill and, incidentally, in justifying their work.

Right Hon. Mr. MEIGHEN: I have no objection to the amendment, but I think that if it is adopted it should be put in parenthesis, so that the words "or necessary" etc. to the end of the section will follow in their natural sequence.

Hon. Mr. McRAE: As I understand that amendment, it will refer to both railways. In other words, it would direct the trustees to submit to Parliament their ideas with respect to economies that should be effected by the Canadian Pacific.

Hon. Mr. McLENNAN: No, it refers only to the Canadian National.

The CHAIRMAN: It refers to "the railway systems of Canada."

Hon. Mr. GRIESBACH: Is not the same sense contained in the words that are underlined in the section as now printed, I mean the words "any co-operative measures, plans or arrangements effected pursuant to this Act, any economies or more remunerative operation thereby produced."

Hon. Mr. McLENNAN: My intention was that that idea should be emphasized.

Hon. Mr. GRIESBACH: I think it would be going a bit too far to go into such details in an Act. I think we are going a little too far as it is.

The amendment was rejected.

Section 14, as amended by the addition of sub-clause (2) was agreed to.

On section 15:

The CHAIRMAN: Section 15 reads:—

The annual reports of the Trustees and the auditors, respectively, shall be submitted to Parliament through the Minister of Railways.

Does the Act state anywhere when the reports shall be submitted? I know there is a general Act which says that the annual reports for the previous year shall be submitted within fifteen days after the opening of Parliament.

Hon. Mr. LYNCH-STAUTON: Would it not be the reports for the previous year that would be submitted under this section?

Hon. Mr. GRIESBACH: That depends upon when their fiscal year ends.

The CHAIRMAN: The fiscal year of the railways is now the calendar year.

Hon. Mr. MURDOCK: I would like to ask why these reports are to be submitted to the Minister of Railways, whereas under section 12 another report is to be submitted to the Minister of Finance.

Right Hon. Mr. MEIGHEN: That is the budget.

Hon. Mr. MURDOCK: Then the budget will not be a part of the reports contemplated by section 15?

Right Hon. Mr. MEIGHEN: No.

Hon. Mr. McRAE: Will we need a Minister of Railways after this Bill goes through, Mr. Chairman?

The CHAIRMAN: To my mind the Minister of Railways will have more trouble than he has ever had after this Bill goes through.

Right Hon. Mr. MEIGHEN: It would be difficult to fix a time when the reports should be submitted. I think it is better to leave the section as it is.

The section was agreed to.

Hon. Mr. CALDER: Mr. Chairman, before we leave Part I of the Act, it has occurred to me on account of some statements that have been made here that it might be advisable to put some sort of check on this budget, if it were possible to do so. We all know what happens, particularly those of us who have been members of a government. A railway company prepares its budget, which is submitted to the Minister of Finance and gone over carefully. It later is sent to the Council and finally approved.

Hon. Mr. LYNCH-STAUNTON: Or disapproved.

Hon. Mr. CALDER: Well, there may be changes but it is finally approved in one form or another. Then it goes to Parliament and generally speaking, under our parliamentary system, once it has reached that stage nothing further can be done.

We heard what Mr. Hanna had to say the other day. In effect he said this: that the manner in which Parliament received and passed these budgets was really a crime.

Hon. Mr. GRIESBACH: They are not informed. They don't know.

Hon. Mr. CALDER: And that a very large part of the difficulty we are now in was due to the fact that the budget went to Parliament, and that once it went there it must be accepted. How often are the estimates of a finance minister actually changed in Parliament? It is a Government measure.

Hon. Mr. GRIESBACH: Is it a Government measure?

Hon. Mr. CALDER: It is at the present time. If any person moves to alter the estimates as submitted to the House, it is immediately a vote of want of confidence.

Hon. Mr. GRIESBACH: Surely it is a different proposition. The estimates of the Government are one thing, and the budget of this railway is another.

Hon. Mr. CALDER: You can hardly separate the two. The Minister of Finance rises in his place; he has approved of this budget; and it is put before Parliament the same as any other estimate. There is no doubt that in so far as the next few years are concerned there will be in Parliament a desire to curtail and hold the railway budget; but what is going to happen when times begin to get better? What safeguard is there against a recurrence of what has happened in the last fifteen years. I do not refer to any one Government, but to all Governments. I blame Parliament as much as I do the management of the C.N.R., simply because Parliament has voted millions upon millions of dollars—I think it is somewhere nine hundred million dollars in the last ten years. What check is provided against that sort of thing? At present I have nothing to suggest, but it seems to me that if Parliament on this occasion can devise some means whereby this cannot recur, it will be a good thing.

The CHAIRMAN: How could they?

Right Hon. Mr. MEIGHEN: You cannot check Parliament.

Hon. Mr. GRIESBACH: You cannot bind Parliament.

Hon. Mr. CALDER: It is not a question of binding Parliament at all. I quite realize that Parliament has full power to do what it pleases, but before that budget reaches Parliament, before it is submitted by the Minister of Railways or the Minister of Finance, could not some means be devised in order to make certain that it is a proper budget.

Hon. Mr. LYNCH-STAUNTON: Check the Government?

Hon. Mr. CALDER: No, I would not say check the Government; probably check the Minister of Railways or the Minister of Finance, or rather, aid them in coming to a conclusion as to what budgeting should be done. If it is possible to do anything or not, I do not know.

Hon. Mr. BALLANTYNE: You have to leave that to the trustees.

The CHAIRMAN: We have been attempting to do that for years. A committee composed of members of both sides of the House was appointed to perform, in a measure at least, just what you suggest.

Hon. Mr. CALDER: The difficulty there, as I see it, Mr. Chairman, is that there is apt to be just a little too much politics when it gets to that committee.

The CHAIRMAN: I have heard that.

Hon. Mr. CALDER: When there is provision made for a line from Timbuctoo to some other place, wheels get working within wheels, and that line is provided for. I would like to see the budget got into shape before it ever gets to a committee.

Hon. Mr. FORKE: It has to pass Council.

Hon. Mr. CALDER: You have some of the same wheels within wheels in Council.

The CHAIRMAN: Would you suggest such a budgeting committee as the United States Federal Government has, and to which all budgets are submitted?

Hon. Mr. BALLANTYNE: My honourable friend Senator Calder has spoken, as he always does, very clearly and forcibly. Some years ago he and I and other ministers were appointed a sub-committee of Council to go over the railway budget. I for one was never more befogged in my life. A sub-committee of Council is not competent—

Hon. Mr. LYNCH-STAUTON: You mean that you and he were not.

Hon. Mr. BALLANTYNE: There were four of us. We have to trust to the men we are going to appoint as trustees.

Right Hon. Mr. MEIGHEN: I think that is the price we pay for that glorious paradise called democracy.

The committee adjourned till to-morrow at 11 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 9

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND HARBOURS

The Rt. Honourable GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne
Barnard
Beaubien
Béique
Béland
Bourque
Buchanan
Calder
Casgrain
Copp
Dandurand
Dennis
Donnelly
Forke
Gillis
Gordon
Graham
Green
Griesbach
Hardy
Hatfield
Laird
Lacasse
Lewis

L'Espérance
Lynch-Staunton
McArthur
Marcotte
McDonald (*Shediac*)
McLennan
McRae
Meighen
Michener
Molloy
Murdock
Murphy
Paradis
Pope
Rankin
Raymond
Robertson
Robinson
Sharpe
Spence
Stanfield
Turgeon
Webster.

Quorum 9]

THE SENATE

WEDNESDAY, February 8, 1933.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill A, intituled: "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 10.45 a.m.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: Now we come to part 2.

Hon. Mr. CALDER: Before we adjourned yesterday I threw out a suggestion in reference to the budget, and since then I have given the matter some thought, and have thrown together some proposed amendments. I hesitate very much to read them, as undoubtedly the question is surrounded with a host of difficulties. At the same time, however, it is possible that these amendments may contain some germ or germs that might eventually be put into shape and be embodied in the Bill.

Briefly, the situation is this. The annual budget from the C.N.R. comes to Parliament, and in my judgment, that, to some extent, has neither been prepared nor considered as it should have been, with the result of which we are aware. Now, I shall read this but I shall not ask for any discussion now. I simply leave it with you, and if by any chance it does contain some ideas that may eventually be put into shape, we can deal with it later.

The board of trustees prior to—

A time is to be put in there.

—shall cause to be prepared a detailed statement of the financial requirements of the National Railways for the ensuing year, and when so prepared and certified to by the chairman of the said board it shall be forthwith transmitted to the Minister of Railways. The said statement shall be divided into proper sections or parts so as to indicate definitely, under proper headings and sub-headings, the following classes of estimated financial requirements:—

- (a) imperative capital expenditures;
- (b) additional desirable capital expenditures;
- (c) essential operating expenditures;
- (d) proposed additional operating expenditures;
- (e) necessary financial expenditures relating to bonds, debentures and other securities, and including interest and exchange;

I haven't the proper wording there. That is everything in connection with what might be called the financing.

- (f) such additional amount as should be provided to take care of unforeseen and emergency expenses of any character;

I had in mind that the budget, when presented to Parliament, should follow these lines. We know what has happened. Usually, as I have seen it in my day, there would be in a few lines an estimate for millions of expenditure, without any necessary details at all or without any subdivision or subdivisions

indicating what the expenditures were for. I daresay in committee they would have all that, but it would not be before Parliament.

For the purpose of reviewing the said statement there shall be established at the proper time annually a National Railway Budget Committee consisting of—

That is, the statement prepared by the National Railway itself must be reviewed. Well, how is it reviewed? It goes to the Cabinet; the Cabinet suggests a committee of four, five or six of its members. Immediately I asked myself this question, because I was there on a former occasion: Am I qualified to deal with that budget? I have done so and I know I was not qualified. Mr. Ballantyne said the same thing last night: He has been on a committee of the Cabinet to review the budget of the C.N.R. I ask in all seriousness, what do we know about it. We are not railway men; and more than that, you have cabinet ministers who are not sufficiently qualified from what I may call the business standpoint to deal with a problem of that kind. My proposition is that there should be appointed a special budget committee to deal with the budget, and for the time being my suggestion is that that budget committee should be constituted as follows:—

(1) The Minister of Finance, who shall act as chairman.

There is no question that the Minister of Finance is going to be finally responsible. He must be on the committee.

(2) The Minister of Railways.

(3) The Chairman of the Board of Trustees.

(4) Not more than three or less than two other members, to be appointed by the Governor in Council, with such remuneration for their services and expenses as may be fixed in the order of their appointment.

I do not propose that these should be permanent appointments at all, nor high salaried appointments. After all, it will only be a matter of, say, ten days or at most two or three weeks for any budget committee to review the budget and revise it, and these men would probably be given a per diem allowance for their services.

Then I proceed:—

3. All meetings of the said committee shall be held at the head office of the National Railways.

There would be a great deal of discussion, they would require a great deal of evidence from the higher officials of the company, and these men should not be dragged to Ottawa, rather the committee should go down to Montreal where these men are available at all times.

(a) It shall be the duty of the said committee to review, consider, revise, alter, amend, strike from, add to or approve any part or parts of the said statement.

(b) To prepare finally a budget of the financial requirements of the National Railway System for the ensuing year. Such budget shall have attached thereto:—

(1) A certificate signed by such members of the said committee as approved the same.

(2) If so desired—

Not necessarily.

(2) If so desired by the remaining member or members of the said committee who object to any item or feature of the said budget, a statement or statements over their signatures setting forth their reasons for any such objection.

That is, the budget goes before this committee, they consider it, they finally reach a decision. Government and Parliament should, in my opinion, know who approved this budget in so far as those reviewing it are concerned and who object, and why they object. That should be on record over their signatures.

(3) The budget so prepared and certified to shall be submitted by the Minister of Finance to the Government for the purpose of consideration and approval.

I hesitate very much to suggest the following, because I doubt if it is feasible from a Parliamentary or a constitutional standpoint:—

If for any cause the Government deems it advisable that the said budget should receive further consideration before being submitted to Parliament, such consideration should be given to it by a joint committee of the two branches of Parliament, composed of such a number of members of each such branch as may be decided upon by the Government at the time of the reference.

An Hon. SENATOR: That is bad.

Hon. Mr. CALDER: I am inclined to think it is, nevertheless I include it here.

The budget as finally approved by the Governor in Council shall be submitted to Parliament for adoption. Submission of the budget to Parliament shall take the form of an estimate, separate and distinct from all other estimates, and the wording of such estimate shall follow as nearly as may be the wording of the budget finally approved as aforesaid.

In other words, I think there should go before Parliament the budget as it was prepared with all those details, instead of their being merely a lump sum.

Here is another paragraph that may be very bad:—

In the consideration of the said budget estimates by Parliament any motion made by any member thereof to alter or amend any such estimate shall not be considered as a want of confidence motion in the Government unless at the time such motion is made the Government announces it shall be so regarded.

As I said last night, there is the point in this that when the estimate is brought down and placed before Parliament it cannot be altered except by the Government or with the approval of the Government. If any member in the House desires to take objection to any feature of the budget, and moves an amendment to it, it at once, as I understand, becomes a want of confidence motion in the Government. I wonder if that is a condition that should exist? These are not like ordinary expenditures of the public service, and I am inclined to think that Members of Parliament should have a little more freedom in dealing with the railway budget than they have with the ordinary estimates of Parliament.

Hon. Mr. LYNCH-STAUNTON: You mean they should have some freedom.

Hon. Mr. CALDER: They have as a matter of fact, but what—

Hon. Mr. LYNCH-STAUNTON: None at all.

Hon. Mr. CALDER: No. What happens is this: Suppose I am a follower of the Government and object to any particular item in this budget, I am immediately branded as opposed to the Government. There is a political condition that arises that is unfortunate.

Hon. Mr. LYNCH-STAUNTON: It is sacrilege.

Hon. Mr. FORKE: You might be thought a C.C.F.

Hon. Mr. CALDER: That is another question. I am simply leaving these suggestions in your hands. I will not ask that we go back to part 1 now, but later probably I shall deal with this question fully.

The CHAIRMAN: With your permission I will submit them to the leader of the Government for him to digest.

Hon. Mr. CALDER: I might say that I just finished them before I came in.

Hon. Mr. McLENNAN: Could copies not be made for all members of the committee?

I would like to ask Senator Calder if he has made any provision for contingencies. For instance, suppose there was objection to putting on new trains, could any change not be effected for a whole year?

Hon. Mr. CALDER: They will make an estimate of their proposed operating expenditures for the year, and they will put in an amount to take care of contingencies of that class.

The CHAIRMAN: We will have copies made for each member of these proposed amendments, and they will be brought up another day for discussion.

PART II

CO-OPERATION BETWEEN THE NATIONAL COMPANY AND THE PACIFIC COMPANY

The CHAIRMAN: Section 16, as it now stands, reads as follows:—

The National Company and the Pacific Company, for the purpose of effecting economies and providing for more remunerative operation are directed to attempt forthwith to agree and continuously to endeavour to agree *and are authorized to agree* upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes.

(2) Without restricting the generality of the foregoing, any such measures, plans or arrangements may include and be effected by means of—

- (a) new companies controlled by stock ownership, equitably apportioned between the companies;
- (b) leases, entrusting agreements, or licences, or agreements for the polling and division of earnings arising from the joint operation of any part or parts of freight or passenger traffic, or express, telegraph, or other operating activities or services;
- (c) joint trackage, running rights, joint ownership, or joint operating agreements, depending upon the nature of the property or services included in any co-operative plan; and
- (d) joint or individual highway services, or highway and railway services combined, in any form.

(3) All or any of such measures, plans and arrangements may, if agreed to by the parties, be made terminable at will, or on or after stated notice, or for a fixed period or periods or any combination thereof, and may from time to time on similar agreement be changed, altered, varied, amended or renewed, as may be considered expedient in the best interest of the parties or in view of changing conditions, and the better to effect the purposes hereinbefore in this section set out.

(4) It shall be the duty of the National Company and the Pacific Company, and they are hereby required, to meet by their proper officers forthwith and from time to time as they may agree, to discuss and to effect by agreement, if possible, the purposes set forth in this Part of this Act. The proper officers of the National Company for the purposes of this subsection shall be the Trustees by themselves and/or such of the National Company's officers as the Trustees may name for the purpose, and the proper officers of the Pacific Company shall be the directors and/or such of the Pacific Company's officers as the said directors may name for the purpose.

Right Hon. Mr. MEIGHEN: I move that the first clause of section 16 be stricken out, and the following substituted therefor:—

The National Company, for and on behalf of itself and/or any or all other of the companies and other elements of which National Railways as defined by this Act is composed, and the Pacific Company, for and on behalf of itself and/or any or all other of the companies and other elements, of which Pacific Railways, as defined by this Act is composed, are for the purposes of effecting economies and providing for more remunerative operation, directed to attempt forthwith to agree and continuously to endeavour to agree, and they respectively are, for and on behalf as aforesaid, authorized to agree, upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes.

The change is proposed so that the general idea may be better carried out, with a view to bringing the obligation direct on the two companies which are legal entities, and the obligation binding them as respects the others as well. That is to say, it is for them to see that the others do as directed in the clause. That is the real meaning of the change, to comply with legal requirements, and otherwise it is just the same as before.

Hon. Mr. LYNCH-STAUTON: Is it any wider?

Right Hon. Mr. MEIGHEN: I do not think it is. It is no wider than it was intended to be first. The clause as first drafted did not effect what was intended.

Hon. Mr. LYNCH-STAUTON: Does this clause give the National Railways any right to poke their nose into the business of the Canadian Pacific that is not connected with transportation?

Right Hon. Mr. MEIGHEN: No. Nowhere in the Bill are they given the right to poke their nose into the Canadian Pacific business.

Hon. Mr. LYNCH-STAUTON: Yes they are.

Right Hon. Mr. MEIGHEN: Well, if co-operation means poking their nose in, they are given the right.

Hon. Mr. LYNCH-STAUTON: Co-operation with regard to transportation is all right, but the definition is such that they may be able to poke their nose into the Canadian Pacific shipping business, for example.

Right Hon. Mr. MEIGHEN: That is, they might be able to co-operate with regard to shipping?

Hon. Mr. LYNCH-STAUTON: Yes.

Right Hon. Mr. MEIGHEN: Would that be an awful thing?

Hon. Mr. LYNCH-STAUTON: I think that would be an awful thing?

Right Hon. Mr. MEIGHEN: Co-operation would not be a crime because the transportation was on the water.

Hon. Mr. LYNCH-STAUTON: I object to it.

Clause 1, as amended, was agreed to.

Right Hon. Mr. MEIGHEN: I move that between the words "Company" and "and" in line twenty-seven, clause 4, the following words be inserted:—

for and on behalf of themselves, respectively, and otherwise as by this Part of this Act authorized,

Clause 4, as amended, was agreed to.

The CHAIRMAN: Now we proceed to line 33, on page 7. After the words "National Companies" and before the word "officers" insert "or National Railways." Is that carried?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Then, in line 36, after the word "Companies" and before the word "officers" insert "or Pacific railways."

Some Hon. SENATORS: Carried.

The CHAIRMAN: The clause as it now stands will read:—

It shall be the duty of the National Company and the Pacific Company, and they are hereby required, to meet by their proper officers forthwith and from time to time as they may agree, to discuss and to effect by agreement, if possible, the purposes set forth in this Part of this Act. The proper officers of the National Company for the purposes of this subsection shall be the Trustees by themselves and/or such of the National Company's or National Railways' officers as the Trustees may name for the purpose, and the proper officers of the Pacific Company shall be the directors and/or such of the Pacific Company's or Pacific Railways' officers as the said directors may name for the purpose.

Hon. Mr. MURDOCK: Is it in order to move an amendment here?

The CHAIRMAN: Oh, yes, if the amendment is in order.

Hon. Mr. MURDOCK: This amendment contemplates adding a clause 5 to section 16, and the entire wiping out of part 3 of the Act as we have it before us. We have gone on in section 16 and have encouraged and authorized co-operation, and we have got to the point where a difference of opinion may develop, or failure to reach agreement. So I move:—

That to part 2, section 16 there be added clause 5, to read somewhat in this way:—

In the event of the representatives of the National Company or the Pacific Company failing or finding it impossible to reach an agreement on proposed essential economies as provided for in this section, they or either the National Company or the Pacific Company may submit the matter or the question of difference in dispute to the Railway Commission, whose decision, after full hearing has been held, shall be binding upon both the National Company and the Pacific Company.

The CHAIRMAN: What you intend to do is to wipe out part 3 and substitute this.

Hon. Mr. MURDOCK: Section 3 deals with arbitral tribunals. Many gentlemen are entirely opposed to the arbitral tribunal. Why? Because it is a one-man judgment, and that one man is known. The contention is made, and the railroadmen particularly feel, that here is a railway commission, instituted by law and in existence for 29 years, that has been functioning in disposing of disputes that affect the people and the railways of Canada. In part 2 as we have adopted it, with certain amendments, it is provided and enjoined that there must be co-operation. All I propose to do is to complete the Bill, if you will, by adding just one section to part 2, and which would obviate the necessity of part 3.

Hon. Mr. LYNCH-STANTON: Will you read it again?

Hon. Mr. MURDOCK: I will send you down a copy, Mr. Chairman.

The CHAIRMAN: Who seconds this resolution?

Hon. Mr. GORDON: I second the resolution.

Hon. Mr. MURDOCK: It seems to me, Mr. Chairman, and maybe I am only speaking my own thoughts, that none of us is any too certain about what is going to be the function or the effect of this arbitral tribunal that is spoken of in part 3, and I think most of us are diffident about adopting it for fear that it will not work out. Now, we have a tribunal set up by law—the Railway

Commission. Under the law the people are entitled to present their views and to be heard. There is no provision for this under the arbitral tribunal arrangement in this Bill, and it seems to me that we ought to conserve to all interested parties the right to be heard in case of dispute.

Hon. Mr. GRIESBACH: Have you examined the powers of the Board of Railway Commissioners to ascertain whether they have the powers that the tribunal would have?

Hon. Mr. MURDOCK: I cannot say that I have examined it sufficiently to determine, but I think that the Board of Railway Commissioners would have jurisdiction over all these matters. We must not forget, however, that in part 1 of the Bill we have taken away from the railway commission certain authority that they might have to deal with some of the questions. All that I am proposing is that in the concluding clause of the Bill we reaffirm the existing rights of the Board of Railway Commissioners, and insist that they continue to function.

Right Hon. Mr. MEIGHEN: Mr. Chairman, if what Senator Murdock has in mind should be done, I fancy this is as appropriate a place to do it as any by way of an additional clause to section 16. Of course, we will all readily understand that if such a very important change is to be made, then the subsequent sections will have to be reviewed very carefully and the whole matter considered in order to make the new arrangement workable and see to it that the powers of the Railway Commission are specifically given so there will be no abortion, that what we really seek to do will be done. Therefore so far as the principle of substituting the Railway Commission plan for the arbitral tribunal system is to be under consideration, we may as well have it now and decide it on this amendment.

If the committee is in favour of the amendment, and it can be accepted, we will undertake of course to revise it and put it in the proper form to effect the purpose that Senator Murdock has in mind.

I know there is some body of intelligent opinion in favour of substituting the Railway Commission for the arbitral tribunal plan. My first observation is that without any question the Royal Commission considered this subject very carefully. The first thing that would occur to them would be that the proper tribunal to appeal to in case of dispute or inability to agree on the change to be made to benefit both roads naturally would be the Railway Commission, which has a history and an equipment for the purpose of deciding railway matters. But after giving that consideration they came to the conclusion that there should be a special plan here. This is worth our thought for a moment, because undoubtedly they gave more time to it than we will be able to give. I do not say we should just slavishly follow their conclusions, because we have a responsibility which is equal with theirs, if not higher.

Now, I know that Mr. Hanna urged this very thing, and he had a very long experience in railway life and a long experience before the Railway Commission, and I have reason to believe that there are other railway men who have the same view. Personally I cannot as yet at all events conform to that view. The character of problem that is going to come before the tribunal, whatever tribunal is to be constituted, is such a problem that I think it would be better dealt with by, first, a man who necessarily must be a judge at the head of it. He would be the head of it even if it were the Railway Commission, although of course the Railway Commission can decide matters without the head being there at all, one commissioner in many cases, two commissioners in all cases practically, can decide. So we would have to make extensive amendments if it is the intention of the committee that the head of the Railway Commission shall always be the man to take the great responsibility. I think there should be a tribunal with that man as the head.

Now, suppose some question of operation comes up, a question of how to pool and divide earnings between two big centres connected by both railways. Would it not likely conduce to a more intelligent decision to have a special operating man put on that tribunal from the C.P.R., another special operating man from the C.N.R., and they along with the Chairman of the Railway Commission, who is a judge, come to a conclusion, rather than have both railways compelled to fight it out before a tribunal, one of whose members is a judge and the others of whom have had no railway operating experience at all, who may vary from time to time, and have not had the background to enable them intelligently to grasp what really is under review?

Because what is going to be under review before this tribunal will be essentially matters for judicial treatment, they will not be matters that affect public service so much. The Railway Commission will be in a position of guarding everything from the standpoint of the public still; but what is going to be decided is a matter which is essentially of a judicial character, and yet requires special experience and training from the standpoint of the particular phase that is under review at the time.

If, on the other hand, instead of being an operation question—where I presume each road would put on an operating man to sit with the Chairman of the Commission—suppose it were a different question altogether, a terminal matter or a matter of trackage or other such matters, in that case each road will put on a man specially familiar with that phase and the Chairman of the Commission all the while will be getting better and better trained in the determination of the balance of merit between the contentions of the two who sit at either side of him.

It is merely for the purpose of getting to a better equipped tribunal that this plan is substituted for the Railway Commission and the other clauses of part II are to enable the decisions of this new tribunal not to be in conflict with anything which the Railway Commission as such might decide. They are designed to make these provisions for a judicial decision fit in with the provisions of the Railway Act respecting the Railway Commission.

Hon. Mr. MURDOCK: Senator Meighen, would you deal with the hearing part of it? Because I think that is all-important.

Right Hon. Mr. MEIGHEN: Yes. Of course, we could change the Railway Commission powers if we wish, we could make it the Railway Commission and provide that the Chairman should always be present, and that there should be at least two other members; we could do that. Then I would think you would get the Railway Commission in the best shape you could have it for the purpose of these decisions.

But would you have it in as good shape as you have it under this Act? Because under this Act you are going to have a man from each company sit with the Chairman, and the man from each company will be specially equipped to argue with the Chairman and reason out the whole merits of both cases and give an impartial decision; and because he is going to have them sitting with him not only while the railways are arguing the case but afterwards when he sits in reserve judgment with these especially equipped men who know the very subject he has to decide—

An Hon. SENATOR: He is an umpire.

Right Hon. Mr. MEIGHEN: He is an umpire, yes. It seems to me you cannot make the Railway Commission act as competently as that.

Senator Murdock will appreciate that it is just the same as an arbitration before a judge. There is no doubt at all that the C.P.R. representative will argue for his side just as strongly as the representative of the C.N.R. will argue for his side, or just as strenuously as the representative in a labour dispute will

argue for his side. They are really advocates, although named arbitrators. Similarly the representatives of the railways will be heard here, but they will be mighty intelligent advocates, and they will be able to sit with the chief commissioner and cut the Gordian knot and get to the end of the dispute. I think they will be better able to get to a right decision than could any two members of the Railway Commission.

Hon. Mr. MURDOCK: It was the public hearing question that I had in mind.

Right Hon. Mr. MEIGHEN: The protection of the public still lies with the Railway Commission, and I do not think the powers of the Commission to protect the public are in any way imperiled or abbreviated by the terms of this Bill. They will have these powers and the public can be heard before them, if a railway decides on any step which it might be conceived would be injurious to the public service. I fancy it is true that if the tribunal makes a decision that a certain great scheme of co-operation is wise and right, and the railway commissioner as head of the tribunal says "Yes, this has got to be done and done on these terms," then the Railway Commission would not be empowered to change that. That is my view of that.

Hon. Mr. MURDOCK: Even although they held a hearing?

Right Hon. Mr. MEIGHEN: But the head of this tribunal can hold a hearing.

Hon. Mr. MURDOCK: There is nothing in Part III that suggests a public hearing.

Right Hon. Mr. MEIGHEN: It may not be in Part III, but it is in the Bill.

Hon. Mr. COPP: Is that one of the suggested amendments?

Right Hon. Mr. MEIGHEN: No, it is in the Bill.

Hon. Mr. BEIQUE: The difficulty I see is that the Chairman of the Railway Board has not always been a competent man. We have no guarantee in this respect for the future.

Right Hon. Mr. MEIGHEN: I do not think that point would arise. Under the proposed amendment, as under the Bill, it is still the Chairman who would preside, and it is a question of who his assistants would be on the tribunal. If they were the regular members of the Railway Commission, I submit that he would not have as competent assistance as he would have under this Bill. The public rights are amply protected under the Bill. This is a court, and hearings are public, the public must be admitted because it is a court. And in addition, the Bill will be so worded, and is so now, that the tribunal can hear special representations on behalf of any section of the public. I have a clause here which I will move be added as sub-clause (2) to clause 19.

Whenever a dispute exists which in the opinion of the presiding officer specially affects any province of Canada or the public thereof the presiding officer shall notify the Attorney-General of such province of the application, of the subject matter of the dispute and of all sittings with relation to it.

Hon. Mr. MURDOCK: That gives the presiding officer supreme dictation powers to decide whether it is a matter of public interest and whether public hearings should be held.

Right Hon. Mr. MEIGHEN: Well, he has it under the Railway Act anyway, Senator Murdock. It is pointed out to me by Mr. O'Connor that on appeal from his decision to the Supreme Court of Canada on a matter of that kind the public can be heard through the Attorney General of the Dominion.

The CHAIRMAN: This vote will be on the principle of the arbitral clause. If we adopt Senator Murdock's amendment there will have to be a change in the language, so in voting on this I suggest that we vote not on details but

simply on the principle of whether we will substitute the Board of Railway Commissioners for the arbitral tribunal.

Hon. Mr. LYNCH-STAUNTON: Senator Meighen has pointed out that we would not be really changing the principle of the Bill in substituting the Railway Commission for this tribunal. Under our law, arbitration is founded on the principle that the parties should have the closest possible relation to the umpire. In all arbitrations that I have ever heard of, whether private, compulsory, or any other kind, an arbitrator is appointed and given the assistance of two advocates, one for each side. Now, in a court of law the litigants are represented by counsel before one or more judges, but the only opportunity that they have of addressing them is in a public way. They have no right, to use a common expression, to sit in and get the views of the judge and argue with him upon the correctness or incorrectness of his views. That is to my mind a defect, an incurable defect, in the judicial system. I think that justice is far better come at by allowing the parties to approach together the final decider of their dispute. Now, if you place this matter before the Railway Commission you could not get that intimate relationship which exists between the deciding officer and the parties interested as we have it in arbitration; you will be destroying entirely the principle of arbitration.

The Railway Board has nothing to do at present with the private interests of the companies. The railways only go before that Board for the purpose of deciding something which affects the public; their private business is never interfered with in any way or considered by the Railway Commission. That body was constituted for the purpose of controlling the railways in so far as the public interest is concerned but not in their private, intimate relations. Now, if we adopt this resolution we are going to give the Railway Board an absolutely new duty, one which has never been given to any judicial tribunal. You see, you may say that it is a dispute. Perhaps it is. But it goes very much further than a dispute. When I make a claim against you a judicial body decides whether or not I can sustain that claim, and you are bound to answer it. But this is not that kind of controversy at all.

I have had good deal of experience before the railway board, and I have found that when it comes down to deciding matters that is left to one of their officers. I argued a case before them for two weeks on one occasion—perhaps it was my verbosity—but in the end I got the decision of the engineer, which was written out and handed to me. It was not the decision of the board at all. I thought I had made out a case and that I should have had the considered judgment of the board. What did I get? I got the judgment of a man who was not present during half the hearing of the case, who was only in and out. That has not heightened my respect for the railway commission, and I think that we should not depart from the principle of arbitration and adopt the principle of judicial interpretation of our rights.

Hon. Mr. CALDER: Will the honourable gentleman allow me a question? When he says we should not depart from the principle of arbitration, is this not so? You and I have a dispute that we cannot settle; we agree to arbitrate.

Hon. Mr. LYNCH-STAUNTON: Yes.

Hon. Mr. CALDER: We each appoint a representative. Those two representatives must agree on the umpire.

Hon. Mr. LYNCH-STAUNTON: Not always; mostly.

Hon. Mr. CALDER: If they cannot, then some provision is made for selection. That is not the case here.

Hon. Mr. LYNCH-STAUNTON: No, but we are professing here to arbitrate, and it is not a matter that any judicial tribunal can dispose of.

Hon. Mr. BALLANTYNE: It has not been decided by this committee as yet whether we will have an arbitral tribunal or not. Should we not decide that first?

Hon. Mr. LYNCH-STAUNTON: I may be wrong—if the committee thinks I am—

Some Hon. SENATORS: Go on.

Hon. Mr. LYNCH-STAUNTON: I say that the whole question here is whether we shall change from arbitration to judicial decisions. That is the point.

I have given a little thought to this question, and though it is said that the unfee'd breath of lawyers is not worth much, I am of the opinion that Senator Murdock's resolution will not improve the situation, particularly when we have this coercive power here. If this coercive power is to be exercised in a matter that disposes of people's property and decides huge interests, the greatest care should be taken. Every opportunity which exists should be given to those interested to bring all their power of argument to bear on the mind of the deciding officer, and that cannot be done unless the most intimate relation exists between the deciding officer and the people interested. These are perhaps the most colossal, the most far-reaching matters, and the conclusion the most tremendous that can arise in the commercial interests of this country. I think that we should decide this matter after the most careful consideration. There should be no catch decision arrived at, and everybody should look at the matter from every point of view. I know that in this committee there are strong feelings regarding the whole question of whether or not these interests should be submitted to the will of any man, that any people's property should be subject to the decision of any man; and if we do that we should see to it that the most perfect tribunal possible is erected.

Personally I do not agree that the railway board is that perfect tribunal. It appears that some people have an idea that more confidence will be had in the decision of a tribunal such as this than in one which we could create; but I think it should be a committee of the railway board, say three members—the chairman and two whom he should select—aided by two assessors from each of the companies. I do not know, however, that that is a bit better than the one we have. I do not know that it would get any better results; but I do not think it would be satisfactory or fair under the conditions that the matters which are to be disposed of here should be referred to either a court or a quasi court such as the railway commission.

Hon. Mr. BEIQUE: Mr. Chairman, I understand that the motion raises the question of arbitration. For my part I am of opinion that the railway board does not possess the qualifications required to fulfill the duties which, by clause 3 of the Bill, it is intended should be fulfilled, and as far as I am concerned, I will vote for the principle involved in section 3 of the Bill.

The CHAIRMAN: Senator Beique always gives me a pointer. If the committee were opposed to any such tribunal, they should vote it all down.

Hon. Mr. BEAUBIEN: I just rise to know whether we are deciding now on the compulsory tribunal—whether an arbitral tribunal or the railway board. It seems to me that there may be a great many of us who are opposed to compulsion of any kind, and it ought to be very clearly understood that we are not bound by any vote that we take in favour of compulsory arbitration.

I may add this. It seems quite clear to me that the least compulsion that we can put into this law to make it effective surely is the measure that we should choose. If it is not necessary we should not limit the company in any way in the exercise of any of the rights belonging to them. I would say that between the two projects, the Railway Commission on the one side and the Arbitral Tribunal on the other—I may be wrong—it seems to me the latter presents the

least degree of compulsion. The reason is a very simple one. If you have one judge and two arbitrators they are constantly in touch with the way the case goes, and if one representative of one company feels that a decision will go against his company, he makes such a concession as may be necessary to have a compromise and not a judgment against himself. Therefore there is no doubt there will be more of amicable agreement and less of compulsion. That is to say, an uninfluenced judgment, if you take the arbitral tribunal. Between the two I would prefer the latter, but it seems to me at this stage we should not be bound by the vote that we are going to give either for or against compulsion in any form.

Hon. Mr. GORDON: I seconded the motion of my honourable friend because I thought it was the lesser of two evils, but I should like to say that if all this Bill were passed up to Section 2, and you eliminate the balance other than this, I think that the party who should give the final decision should be a man appointed and agreed upon by the two contestants. His decision would be final and binding. It appears to me that if I owned the C.P.R. any other kind of arrangement than that would certainly meet with my disapproval; and I think further, if the suggestions of my honourable friend, Senator Calder, are carried out they would stamp out the whole evil. If we had had such a law as that in the past we would not be in the position we are in to-day.

I think we are magnifying this arbitral tribunal too much, and I do not think it is necessary. It will be a bone of contention forever it seems to me. So if I had not already seconded the amendment of my honourable friend I would have liked to see the clause amended in the respect I have indicated.

The CHAIRMAN: Gentlemen, will you allow me to make this suggestion. If you look at the first clause of part III for the moment—and we want to be practical—we will take a vote on the principle of any arbitral tribunal. Then we can decide the kind of tribunal afterwards and discuss further Senator Murdock's motion.

Hon. Mr. CALDER: I say very frankly that this part of the Bill has given me more trouble, and I have had to devote more serious thought to it than to any other section. As I stated on the second reading. I saw the greatest difficulty in coming to a conclusion on this compulsory feature of the Bill. What conclusion I finally will arrive at I do not know.

The proposition as contained in the Bill to my mind is fraught with the very greatest difficulties, and for good sound reasons. One of those reasons has been mentioned by the honourable gentleman who spoke last. We are proposing by the sections dealing with arbitration that the Canadian Pacific Railway Company shall be compelled to submit questions which are in dispute between themselves and the Canadian National Railways to the decision of one man, and that that decision shall be final. We are going a very long way in this respect. Whether or not it is in the interest of the public that we should go that length I am not at present prepared to state. I shall do so with the very greatest hesitancy.

Hon. Mr. BEIQUE: Will the honourable gentleman allow me to draw his attention to this: We are dealing merely with the principle, not with the details of the duties of the arbitral board.

Hon. Mr. CALDER: I am speaking entirely to the principle of arbitration and the class of arbitration that shall be provided. I do not wish to go into details at all. I can conceive of the necessity of an arbitral tribunal, and I am prepared to vote for it. I think this Bill will have no effect such as it should have unless an arbitral tribunal is provided.

As to providing that the Board of Railway Commissioners shall be the arbitral board, I am absolutely opposed to it, for the reasons that have been cited by the several gentlemen who have spoken. I am absolutely opposed to

the idea that the Board of Railway Commissioners, consisting of six men, should be appointed under this clause to decide the various questions that will arise in dispute between the two companies of the character and magnitude described.

Now, if we must have an arbitrary tribunal, what kind of arbitrary tribunal are we to have? I think Senator Meighen's idea is the proper one, that it must be a one man arbitral tribunal, that one man to be the umpire between two men representing the railways. That is, the arbitral tribunal should consist of three, two members representing the companies in dispute and a third man to be the umpire. If the umpire is to be selected, instead of leaving that in every instance to the two men—although the suggestion is a good one; that is the ordinary course in appointing arbitrators; in all arbitrations if two parties are in dispute those two parties get together and agree upon an arbitrator.

An Hon. SENATOR: Is not that the only sensible course?

Hon. Mr. CALDER: Yes. They mutually agree to have an arbitration. That is not in this Bill, and if any gentleman can give me an illustration of an arbitration that takes place where the persons who arbitrate have not agreed on the arbitrators—

Hon. Mr. LYNCH-STAUNTON: Yes, many of them, all the railway commissions.

Hon. Mr. BEAUBIEN: What about expropriations?

Hon. Mr. CALDER: At any rate, that is the usual course that is followed in the case of private disputes between individuals. If they agree to arbitrate they appoint an arbitrator. At present I am inclined to think that the Bill goes too far, but I am not going to give final judgment on that because I wish to hear what else will be said by other members of the committee. It strikes me at present that only such matters should be placed before an arbitral tribunal as the railways themselves agree should go before that body. Suppose the two companies agree that through co-operation they should endeavour to effect a certain economy, and they come to conclusions as to what should be done. Well, under their agreement they must provide for the compensation. Let us say it is a terminal that is to be abandoned, a Canadian Pacific terminal. Both roads agree that the abandonment should be effected, but when they get down to brass tacks and try to decide upon the final conditions, they cannot agree. They want to have their dispute settled and they are both willing to go before an arbitral tribunal to have it settled. Whenever the two companies are in dispute over questions of economies that they are willing to put into effect, I say let those things go before a tribunal.

But suppose a different case. Suppose that the Canadian Pacific suggests, under this law, that for the purpose of effecting economies the Canadian National should do a certain thing, and that the Canadian National is opposed to doing that and does not want to go before an arbitral tribunal. Well, are you going to force them to do so? I doubt the wisdom of that. It seems to me that as we have set up a system of compulsory co-operation by these people, we should let that system run along for at least one year, with the additional provision that the arbitral tribunal as practically set up by this law should exist but that only such questions should be referred to that tribunal as the railway companies agree should be referred to it.

Right Hon. Mr. MEIGHEN: It would be quite logical, I think, to decide first the question the Chairman has mentioned, but to do so we should postpone by agreement the amendment made by Senator Murdock and revert to it after decision for or against the first clause of the next section. Now, assuming we do that, I should like to say a word on the question as to whether there should be compulsory arbitration, and if so whether or not it should be only in cases where the railways themselves decide that arbitration should be resorted to for the resolution of some dispute between them.

I want to add to what I said before, that I think Senator Lynch-Staunton puts the case better than I do, and he thought it out more carefully. If we are to have an arbitral tribunal at all, it seems to me clear from his reasoning that it would be infinitely better to have a tribunal as provided for here rather than the Railway Commission, for the reason that that Commission is not an arbitral tribunal but a court, and the members agreeing upon a decision have not, while in process of agreement, among their number those representatives of each side who are thoroughly versed in the question in dispute. Therefore in such a case there is no opportunity of arguing with the judge himself and of conceding in order that a conclusion may be come to.

Passing from that point, and hoping that if we decide upon an arbitral tribunal we will decide upon one of this nature, rather than the Railway Commission, I want to say a word upon whether we should have an arbitral tribunal or none at all, or only one to be used at the option of the two companies. We listened yesterday to the testimony of Mr. Fairweather and Mr. Grant Hall, who told us what had been done to date. I do not know how the committee felt about the testimony, but I must admit that I was not particularly encouraged. After they got through I felt that there was not only a pretty long road to travel but that it was going to be very difficult to make definite accomplishments. Well, now, what is going to happen? Let us say that a proposed union of two or three terminals is under review. One of the companies has the terminal now that undoubtedly will be used if they are going to get together, and let us say that in this hypothetical case the advantage is going to be 90 per cent to the Canadian Pacific and 10 per cent to the Canadian National. The Canadian National would not be in a very big hurry to accept the proposal, would not be very much interested in it, while the Canadian Pacific would be tremendously interested in it. Unless there is some method of resolving the difficulty, I do not think they will resort to any at all, that the dispute will just drag on and on and the public will not see anything but the dispute. If there is an outcry that the roads should get together on the question, they will say "We are trying to, but we cannot." In those circumstances much valuable time would be lost. But if one of them has the right to go before a tribunal and the other one knows that right exists, they will act accordingly and the dispute will be ended.

Hon. Mr. CALDER: May I interrupt? I am in doubt as to the position. Suppose the companies agree there should be a joint terminal, it seems to me that once the terminal is so used it should continue to be used in that way in the future, and I assume that the agreement made between the companies would so provide.

Right Hon. Mr. MEIGHEN: But when the companies are wrestling with a concrete case of that kind, they are not going to agree in writing that there will be a joint terminal, unless it is in the interests of both of them to do so. One will say, "Yes, there should be a joint terminal, but the terms should be so and so." The other will reply "We are in favour of a joint terminal, but not on the terms you propose." The problem may be wrestled with for a long time, but gradually the interest in it will become less and less, until the proposal is dropped. But that would not happen if the company that has the greater concern in having the dispute settled has the right to go to a tribunal. Unless such a right is given, we shall see resolutions adopted by the Senate, perhaps, but nothing done. It is in the interests of both companies to know that there is a definite method which can be called into use for settling differences, and with the tribunal in the background I do not believe it will be resorted to very often. They know it is there, and they know what is fair, and there is not going to be such a great deal between them, because they have equally able men. They know what is a fair division. Each side is fighting for its end; but if one has very little to gain, and the other has a lot to gain, the one that has but

little to gain will be very indifferent and will not care about the passage of time. They know that the other company is losing tremendously, and will stand pat in the hope that they will come to them on their knees. I am sorry that I cannot agree with the viewpoint of the Canadian Pacific, but I have always felt that it was in the interest of both companies to know that there is a way to end matters, to get things done. It is especially to the interest of one in the one case, and of the other in another, and I am strongly of the view that it should be in the Bill. The more I consider the important features of the measure, which is merely an implementing of the transportation commission's report, the more I am disposed to think that those men thought out the subject very thoroughly.

Hon. Mr. GORDON: These roads are going to be managed by good business men, and if such an occasion as you suggest arises in connection with a certain terminal, they can saw off between themselves; they can say "You give in to us here and we will give in at another point."

Right Hon. Mr. MEIGHEN: We hope they will.

Hon. Mr. LYNCH-STAUNTON: But suppose they don't.

Hon. Mr. GORDON: I think we would be surprised in future at how seldom things would come up before the arbitral tribunal to be settled.

I only wish now that I had not, as I said before, seconded the resolution, because I should like to bring in an amendment.

Hon. Mr. MURDOCK: He has quit me.

Hon. Mr. GORDON: No, I haven't.

Some Hon. SENATORS: Question.

Hon. Mr. GORDON: I should like to bring in an amendment which would lead the public to believe, and induce us to believe that the men that are going to look after these roads are going to be good honest business men and that we can leave it to their judgment to decide voluntarily.

Right Hon. Mr. MEIGHEN: You miss the important point, Senator Gordon. In every case there is a different proportion of benefit to the two parties. If things are not done one may lose something. Do you think the one that is going to lose the little is going to hurry? No. He knows that the other will get down on his knees to him if he just waits; consequently inequitable decisions will be come to, if they are come to at all. Therefore, to get equitable decisions we give them the right to go before the tribunal in order to decide the cost and the benefit. The senator says they should be allowed to choose their own arbitrator. I think that would be fatal.

Hon. Mr. GORDON: I don't.

Right Hon. Mr. MEIGHEN: The senator has the great qualification that he can change his mind. If he reads the Bill carefully he will see that provisions are placed in it to make certain that the decisions of the arbitral tribunal become the records of a court, that the principles adopted become principles that railways can depend upon as applying in the future, and also that the decisions do not impinge upon the jurisdiction of the Railway Commission, and that in certain cases they become records and decisions of the Railway Commission. How could that be done if you have Tom Smith as chief arbitrator to-day and John Brown to-morrow?

The CHAIRMAN: Let me just get this straightened out now. Will the committee agree that for the moment we should defer further consideration of Senator Murdock's motion?

Some Hon. SENATORS: Agreed.

The CHAIRMAN: We will come back to it again. With the consent of the committee we will proceed to 17, and you can discuss this question.

On section 17—Arbitral tribunals to be erected as required:

The CHAIRMAN: (Reading):—

Arbitral tribunals, constituted in manner hereinafter described, shall be erected as and when required for the purposes of this part.

That is what we are going to vote on when we do vote. Shall we have an arbitral tribunal of any kind. When you have finished discussing that we will take the vote.

Hon. Mr. LYNCH-STAUNTON: No. To decide that we ought to decide what the nature of the arbitral tribunal is to be. I have expressed my view of what it should be, but what its jurisdiction is to be is a very important matter.

The great objection that I have to compulsory arbitration is on one phase only. Compulsory arbitration is necessary in many things, and should be adopted. Mr. Meighen has graphically described the reasons—and I need not entertain you any more with them—but in order to arrive anywhere one should take a concrete example.

Now, the question of allowing an arbitral tribunal to destroy the capital assets of one company is of paramount importance. We have all been told—we don't know anything about it—that 5,000 miles of these railways should be scrapped. I asked a gentleman "Where are those portions that should be scrapped?" He said to me "From Sudbury north they run two lines, one, called the north shore of Lake Superior, belongs to the C.P.R.; the other, the old Canadian Northern, goes up into the country and has the same terminal. It is insensate to continue the two of them." That question may and probably would come before the board. If those roads were consolidated I would think it perfectly right to leave a question like that to compulsory arbitration. But these are only temporary expedients. The Act itself says so. This whole business may be upset in five years. Suppose they have an arbitration concerning those two lines, and suppose they say they have the power—and there is a clause in there that assumes that they have, although I do not believe that the Act gives it to them—they might say, "We will scrap that whole line of the Canadian Pacific Railway from Sudbury to Port Arthur;" or, "we will discontinue its use." Then the C.P.R. would have to maintain it or find itself cut in two. They would lose that enormous line. They say the same thing of the Canadian National in British Columbia. I am not sufficiently familiar with the geography of that province more than to say that there is a question of that kind which will certainly arise there. .

Hon. Mr. CALDER: You can see the two lines running down side by side, they are red and blue.

Hon. Mr. LYNCH-STAUNTON: If this was to last forever, or if the board was bound to give the C.P.R. running rights for all time over the Canadian National, it would not make any difference to them whether they scrapped that other line or not, and they should scrap it; but if it is only to be temporary it will be a colossal calamity to the C.P.R. to have that line scrapped.

I think there are a number of important questions; it bristles with important questions which should be submitted to compulsory arbitration. But there are other things dealing with the capital investment of either road, and if those questions are referred to compulsory arbitration the arbitral board should be bound to give compensation or to protect—take the example of the C.P.R.—against ultimate loss by the result of the arbitration.

Now, I should not like to give any board the right to wipe out either the Canadian National main line or the C.P.R. main line—I might do so for branch lines, but not for main lines—without practically saying, you will not be left

high and dry when this business comes to an end. I said the other day I could not see that Mr. Beatty had made out any case to show that his railroad would be injuriously affected; but I have changed my mind entirely since my informant pointed out to me that example.

An Hon. SENATOR: Be careful.

Hon. Mr. LYNCH-STAUTON: He was not anyone connected with the C.P.R.; he was one of the members of the Senate. He held that up as an example to me. I must say that it was an overwhelming argument to me against leaving an unconditional power to arbitrate on such questions.

There may be such vital questions in many parts of this Dominion, but the principle of compensation, of protection, should be involved in this power that is given to the board. Without such a condition I certainly would not vote for compulsory arbitration, although I am satisfied that it is absolutely necessary in 99 cases out of a 100 that we should have that power to coerce these people into commonsense in the management of these two railways.

Hon. Mr. MURDOCK: Might I ask you a question, senator? Is it possible, having regard to the fact that we adopted the preamble of this Bill by 24 to 1, for the complications to arise that you have been speaking of in the scrapping of large mileage of either road? That, as I understood, was only reasonably possible under amalgamation.

Hon. Mr. LYNCH-STAUTON: No, I did not so understand it. I may be all wrong—I usually am. But I want an element introduced into this arbitral principle that will protect them. I think the two railroads are sunk anyway, and I do not want to give the C.P.R. a chance to say that the Government of this country destroyed them. I think they are destroying themselves. I do not want them to be able to say to their shareholders: They, the Government, made us scrap six hundred miles of our line.

Hon. Mr. MURDOCK: It cannot be done unless we go back and change the preamble.

Hon. Mr. LYNCH-STAUTON: We can change the preamble, we can change anything. I do not think we are bothered with technicalities in this committee. I am for compulsory arbitration, but I am for looking ahead and guarding against any injustice which may arise out of arbitration. I do not think it is beyond the wit of man to devise something which will not allow the Canadian Pacific Railway to say that we have unjustly treated them and have contributed to the decline of their railway. If we cannot guard it properly we should not institute it.

Some Hon. SENATORS: Question.

Hon. Mr. BALLANTYNE: I for one should not like to be asked to vote just now. On general principles I am opposed to any private company having their rights interfered with. I am not prepared to say for the moment just what vote I will eventually register, but I think, Mr. Chairman, that if we considered the powers of this arbitral tribunal clause by clause we might so change them that it would not be possible for anything to happen like Senator Lynch-Staunton has just stated—a very extreme case, I will admit—but in any event the clauses ought to be carefully gone over and put in such shape that no such extreme case could happen as forcing a private company like the C.P.R. to abandon a main line from the Soo to Port Arthur. I should like to suggest to the members of this committee that before we come to a vote—and of course we all realize it is a tremendously serious question—that we ought to consider their powers clause by clause and see if we cannot draft them in such a way that the rights of the C.P.R. would not be injuriously or unfairly treated. I sympathize a great deal with my friend Mr. Beatty. We all know it is private capital in a private company, and I can quite appreciate his not wanting any interference. On the other hand, my leader has put it in a very concise way that if it came to a matter

of terminals in the percentages that he has stated, the results would be just as he has so well outlined. Therefore it would appear to me that we ought to have some sort of a tribunal to appeal to, but I hope that the safeguards will be such that the private company will not be unjustly or unfairly interfered with.

Hon. Mr. GORDON: Mr. Chairman, the other night I was listening to a broadcast by a gentleman in the United States, and he said that in order to keep his mind clean he had to resort to changing it occasionally. I think the only place for compulsion should be in the event of the two parties not being able to agree on an arbitrator. If they could not agree on an arbitrator, then it should be left within the jurisdiction of some person to appoint an arbitrator.

Hon. Mr. LYNCH-STANTON: That is just the same as it is now.

Hon. Mr. GORDON: No, it is not.

Hon. Mr. BALLANTYNE: Mr. Chairman, can we not consider this clause by clause?

Hon. Mr. CALDER: If I remember correctly the evidence given by Mr. Beatty, he was strongly opposed to an arbitral tribunal of any kind, but at the same time I think he said—although I am not sure of this—that if an arbitral tribunal was to be created he was of the opinion that the Bill could be amended and put in better shape than it is now, and he intimated that he would like to have something to say with regard to it. Undoubtedly, we have reached the crux of this Bill, the most difficult part to decide, and it seems to me that if Mr. Beatty has anything to say to us before we make up our minds on this question it is only proper that we should give him an opportunity. If he does not get that opportunity here the chances are that he may take it elsewhere. Before we dispose of this Bill here I think we should get it in the best possible form.

Hon. Mr. McRAE: Mr. Chairman, I share with Senator Lynch-Staunton his anxiety with respect to possible interference by this tribunal with the capital properties of the Canadian Pacific. I know that Senator Murdock questions that point of view, but paragraph (e) of clause 3, section 17, states that the jurisdiction of the tribunals shall extend to disputes concerning abandonment of lines, services or facilities.

There is a very general opinion throughout America that I presume applies more or less to our railway situation in Canada, that the railways of this continent have a very serious period of readjustment before them. That the results are going to be disappointing to the shareholders, no one who is familiar with the railway situation in America will dispute. We are dealing with a very important matter here. If we by Act of Parliament seriously interfere with the operations of the Canadian Pacific Railway, and if the earnings of the railway should be disappointing to its shareholders, will those shareholders not say, "Had we been left alone we would have got along all right, but the Government of Canada has taken away the management, and our operations have been unprofitable." Should such a situation arise, in my humble opinion the criticism that would fall on the shoulders of Parliament would be a hundred times greater than that which has been levelled at Parliament in connection with the Grand Trunk.

I quite agree with the sentiment which has been expressed by some members of the committee, that some form of arbitration is essential with respect to certain operations of the roads, but certainly if the intention is to go so far as the Bill proposes in interfering with capital assets, I would have to vote against the measure for that reason.

Hon. Mr. BEAUBIEN: Mr. Chairman, there is no doubt that if we have compulsory arbitration the differences between the two railways will be settled very much more promptly than they otherwise would. But what is going to be the cost of it? There is an old French proverb that runs like this: *Le temps se venge souvent de ce que l'on fait sans lui*, or, in English: Time often takes its revenge upon those who do not take time.

Now, if we go too fast in this matter it is possible that we may injure the credit of the Canadian Pacific Railway. I have had it said to me by people who are familiar with international finance that great money markets which have been open to the Canadian Pacific and which are necessary to the Canadian Pacific will look unfavourably upon this measure to wipe out the railway's Board of Directors—and there is no better Board in the country—and substitute one man, the Chief Railway Commissioner. The credit of the Canadian Pacific is infinitely bound up with that of Canada. Anyone who travelled through Europe a few years ago found that many people with whom he spoke were familiar with the Canadian Pacific although they knew nothing about Canada. Now, is it necessary at this time to take the chance of interfering?

Unless I am entirely wrong, there is a strong public opinion now against any extravagance. Would any railway dare at the present time to build hotels, for instance? Public opinion to-day is as strongly in favour of economy in every direction as it was, a few years ago, in favour of extravagance.

Now, both railway have admitted that they have had conferences which have shown them that they can agree on certain matters. They have agreed so far. Mr. Fairweather and Mr. Grant Hall told us that their joint committee has been sitting from day to day and so far they have agreed on everything that has been before them.

Hon. Mr. LYNCH-STAUNTON: But they are going to take five years, like Russia.

Hon. Mr. BEAUBIEN: But there will not be five years without a session of Parliament. And if they do agree, it is not necessary for us to inflict upon the Canadian Pacific Railway a Bill of this kind which, after all, interferes with the right of the company to manage its property as it wishes. That company has had the benefit of a good administration in the past. Let us forget the last two or three years—

Hon. Mr. LYNCH-STAUNTON: The last ten years.

Hon. Mr. BEAUBIEN: For thirty years before that the company had such a credit as perhaps no other company in Canada could equal. It is a very serious step for us to take, unless it is absolutely necessary, to interfere as this Bill proposes. It seems to me, Mr. Chairman, that it would not be unwise for us to hold our hands this session, and if next year we find that there has been an unreasonable delay in effecting certain economies that we think should be made, then we could adopt the legislation proposed in the third part of this Bill. They know what Parliament wants them to do now, and they have the support of public opinion in any reasonable economies, besides which they have the tremendous incentive from their own point of view of maintaining their credit. That credit rests in a large measure on the record of its capable Board, its efficient administration and successful operations in the past. Yet all that credit might be wiped out, so far as international finance is concerned, by the adoption of the third part of this Bill.

Hon. Mr. BEIQUE: Honourable gentlemen, I stated a moment ago that I was, in principle, in favour of arbitration. But what I had in mind was not compulsory arbitration, but arbitration such as was considered and reported upon in 1925 by a very important committee of the Senate. I am sure that every member remembers their recommendation. The committee, having heard a great many people, made five different suggestions, and one, suggestion (e), recommended arbitration of the kind that I have in mind to-day.

Right Hon. Mr. MEIGHEN: Before we go, I feel that I should say something more. We have a tremendous responsibility resting on us, and I think every one of us realize it; and as sponsor of the Bill I certainly realize that I have a very great one. We had many organizations and districts represented before

us, and there was not one of them that was not in favour of the objective that we have in mind. There was not one of them that was not all for economy, and all for co-ordination and co-operation; but just as soon as we started to economize, they shrunk back. You find very many people in favour of economy so long as you do not economize, and I think there are many members of this committee who are in favour of compulsion so long as it does not compel.

We want to take care that we do not put through something that is merely a worthless expression of a wish, an aspiration, and not legislation. I am not going to make anything in the nature of an appeal on behalf of the Government. I do not know whether the Government has very strong views on these arbitral tribunals or not, and certainly it would be up to me to find out whether they had before I presented anything purporting to be the Government's view. But I ask you to consider this, Railways on this continent and throughout the world have been an increasing and an all-pervading utility, extending gradually, over a long period of years, in their vital necessity; and everybody is compelled to admit, I think, that they have reached the height of land, and that another process is now in sight. That is, the process of contraction, of loss of capital, of seeking, by such means as the legislatures of their own efforts can provide, a lower status of demand and a lower volume of demand in the way of public service. Parliaments have to address themselves to meeting that situation, and the old methods of legislation will not meet it at all. Some method has to be devised to utilize what we have got, to abandon where the loss will be the least, and so reach a more contracted phase of railway service and operation. That is a wholly new problem, a very big problem, and a complicated problem. But that is the problem we now face.

If we leave the Bill without any provision whereby either of the parties can seek a decision on the big questions that arise in this great process of contraction, what is left of the Bill? We have three trustees instead of fifteen or twenty. I think that is perhaps good, but it is a pretty small modicum—a mouse to come out of the mountain of a great commission of investigation.

Hon. Mr. BEIQUE: We can increase it.

Right Hon. Mr. MEIGHEN: We can make it more than three, oh, yes.

Hon. Mr. BEIQUE: You can compose it differently.

Hon. Mr. LYNCH-STAUTON: It would still be a mouse.

Right Hon. Mr. MEIGHEN: I know that Senator Beique has a far bigger and more comprehensive appreciation of the situation than that. It is still a mouse, and without doubt it is totally inadequate to the situation that confronts Parliament and the country.

Senator Lynch-Staunton, I know, feels that there is going to be something done in the way of abandonment. If it has to be done, hasn't there got to be some way of seeing that it is done?

Hon. Mr. LYNCH-STAUTON: Yes.

Right Hon. Mr. MEIGHEN: All that legislation can do is to see that the method employed is an equitable one and that there is resort to a proper tribunal in determining what is equitable. I submit that the Bill provides for that. If honourable gentlemen will turn to page 13 of the amendments they will find clause 16, which is inserted:

The National Company, for and on behalf of itself and/or any or all other of the companies and other elements of which National Railways as defined by this Act is composed, and the Pacific Company, for and on behalf of itself and/or any or all other of the companies and other elements, of which Pacific Railways, as defined by this Act is composed, are for the purposes of effecting economies and providing for more remunerative operation—

There is the objective. Remember, that is going to be in the mind of the judge when he is determining any dispute that comes before him. He must so decide the dispute as to enable them equitably to reach that objective. They are:

—directed to attempt forthwith to agree and continuously to endeavour to agree, and they respectively are, for and on behalf as aforesaid, authorized to agree, upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes.

Now, that is the purpose the two are to seek; that is the purpose that must be achieved by any decision, any equitable decision to be made by a tribunal. They must reach that purpose. Therefore the tribunal certainly has power to impose such conditions as will distribute the burden, and the advantage as well, equitably between them. It has to have such power. Are we to say "There is to be no tribunal; we will wait till a year from now and see what is going to happen?" Do we realize what is being lost week by week, day by day? A lot of the saving is made up by internal economies, but vast amounts can only be made up by mutual arrangements between the railways, by mutual contraction, because even with the return of better times the mass of business flowing to the railways will never be comparable in years to come with the aggregate in years gone by. It is part of the evolution of commerce. Therefore, we have to see that such abandonments are made as have to be made, and that the burden of abandonment is equitably shared. Do not let us shy from the problem. Every road is entitled to a judicial decision. If the C.P.R. get into a quarrel with some other company it has to submit to such courts as the nation provides. If it gets into a quarrel, or a dispute of the nature that is referred to here, we say it must submit to this court; and this court is erected to equitably dissolve that dispute and distribute the burden and the benefits. If we do not provide for that, I venture to repeat what I said before, that all we will be doing will be to say to the parties that they have the power to do what they had power to do before, and which, because there was no means of coming together and compelling a decision, they failed to do all these years.

The CHAIRMAN: It is ten minutes after one. Shall we meet immediately after the session?

Some Hon. SENATORS: Carried.

Hon. Mr. LYNCH-STAUTON: I quite agree with what Mr. Meighen has said. If what he contends is so, if the protection is involved in the words he has read, I would be quite satisfied to go the whole distance. But I think he has a sufficient command of language to make that clear so that it would not require a lawyer's argument to impress it upon the tribunal.

Right Hon. Mr. MEIGHEN: If it is not clear we ought to make it so.

Hon. Mr. LYNCH-STAUTON: That is my whole contention.

The committee adjourned at 1.10 p.m.

The committee resumed at 4 p.m.

The CHAIRMAN: When we adjourned we were discussing subsection 1 of section 17, part 3, the substance of which is that arbitral tribunals shall be established. We were discussing the question of whether this committee would recommend the adoption of any arbitral tribunal. Is there any discussion on this question?

Some Hon. SENATORS: Question!

The CHAIRMAN: Shall we have an arbitral tribunal?

Some Hon. SENATORS: Carried!

Right Hon. Mr. MEIGHEN: It has been urged strongly to me since the adjournment, especially by Senator Ballantyne—and only in accordance with what he said before the committee—that it would probably be better if we went ahead with the detail of the clauses of part 3 in order that the members of the committee may be sure that they are in the best possible form, and do not permit the tribunal to do grave injustice to either party. After we went over them one by one, not finally adopting them, because there is no use adopting anything until we adopt the first part, we might go over the rest of the proposed amendments and take any suggestions that any honourable member might have to offer to improve the Bill. If you care to, we could go back to clause 16, which is the central, directing clause, and if Senator Lynch-Staunton feels that he can add to that clause any words which will insure that the judge in exercising his best judgment cannot do a grave wrong to either party—personally I cannot see how clause 16 can very well be improved, but I am quite open to any improvement that can be made—

Hon. Mr. LYNCH-STAUNTON: If you cannot see it, I will not be able to.

Right Hon. Mr. MEIGHEN: Oh, I don't know. You might add some words to it, although I think it covers the situation. Then, going over the rest of clause 17, by the time the committee come to vote on whether there will be an arbitral tribunal or not, they would at least know all the restraints and directions by which this tribunal is to be governed.

Hon. Mr. MURDOCK: Mr. Chairman, I do not like to appear to be too insistent, but it seems to me that with the information that I thought I had got in the last few days or weeks on this question, there is a great issue involved here that we could very well have determined one way or the other on the amendment I proposed, to add a new subclause to section 16. We passed subsection 2 of 16 with certain amendments, and I proposed to add an additional subsection, No. 5, which would have brought a show-down on one question on which I think this committee is divided, namely, whether the board of railway commissioners is going to be authorized to deal with disputes between the railways or whether an entirely new tribunal is to be set up to do that work. I think we would surely get along some distance if we had a vote on my proposal. All that contemplates is referring questions that are not settled by agreement between the National Company and the Canadian Pacific Company to the board of railway commissioners for settlement; and I think, Mr. Chairman, we would still be free to go ahead with part 3, and maybe to set up plans and regulations under which the board of railway commissioners would deal with the disputes. The concrete question is before us in clause 5 which I submitted this morning.

The CHAIRMAN: There is only this danger, that there are members here who do not believe in having any tribunal.

Hon. Mr. MURDOCK: They will vote against it.

The CHAIRMAN: But if the vote was taken, and it was decided that there should be a tribunal, they would be voting for you. I am just giving you the point I had in mind. That is the reason I suggest endeavouring to decide in the first place whether we will have a tribunal of that kind, and afterwards logically decide which one it shall be. However, I am in the hands of the committee. If the committee wish to take a vote on the principle involved in Senator Murdock's resolution, that the arbitral board be the board of Railway Commissioners, and that is really the gist of his resolution, well and good.

Hon. Mr. GRIESBACH: The situation is sufficiently clarified I think to vote on that.

The CHAIRMAN: Then shall we return to section 16 and take a vote on Senator Murdock's amendment? What does the committee say?

Some Hon. SENATORS: Carried.

Hon. Mr. MURDOCK: One word of explanation, Mr. Chairman. I heard a number of gentlemen here this morning talking as though the word "shall" was in this clause instead of the word "may". Therefore I should like to read it so you can ascertain that "may" is really the word.

Some Hon. SENATORS: We will take your word for it.

Hon. Mr. MURDOCK: Let me read it, please.

The CHAIRMAN: Senator Murdock will kindly read his amendment.

Hon. Mr. MURDOCK: This is the amendment:

In the event of the representatives of the National Company and (or) of the Pacific Company failing or finding it impossible to reach an agreement on proposed essential economies as provided for in this section, they or either of them, the National Company or the Pacific Company, may submit the matter or the question of difference in dispute to the Railway Commission, whose decision after full hearing has been held shall be binding upon both the National Company and the Pacific Company.

Hon. Mr. FORKE: As Senator Murdock reads his amendment it will be optional.

Right Hon. Mr. MEIGHEN: Senator Murdock is quite right there, for the reason that no company is compellable to appeal even to the arbitral tribunal, but it has the right to do so under this clause. Similarly, if the Railway Commission is used the word "may" is proper.

The CHAIRMAN: Are you ready for the question?

The amendment of Hon. Mr. Murdock was negatived: Contents 3; non-contents 18.

Hon. Mr. LYNCH-STAUNTON: Before you depart from section 16, Mr. Chairman, I have something more to add. You will notice that 16 lays down first:

The National Company and the Pacific Company for the purpose of effecting economies and providing for more remunerative operation are directed to attempt forthwith to agree and continuously to endeavour to agree and are authorized to agree upon such co-operative measures—

Right Hon. Mr. MEIGHEN: The senator should read "J".

Hon. Mr. LYNCH-STAUNTON: It does the same for my purpose. The gist of subsection (2) is that the companies are authorized to consult each other to arrive at co-operative measures and plans and arrangements for the purpose of effecting economies. The subsection contains these words:

Without restricting the generality of the foregoing, any such measures, plans or arrangements may include—

Here is what they include

—such measures, plans or arrangements may include and be effected by means of new companies, leases, joint trackage, joint or individual high-way service.

Subsection 3 provides:

(3) All or any of such measures, plans and arrangements may, if agreed to by the parties, be made terminable at will, or on or after stated notice,—

and so on.

If you turn to the arbitral clause you will find on page 8 of the revised Bill:

(e) abandonment of lines, services or facilities.

Now, my impression is that the wording of clause 16 confers the jurisdiction, the powers, and it does not, in my humble judgment, confer any power to enforce the abandonment of lines. I have read it several times very carefully, and I am satisfied that no such power is given. But you can depend on this, that those two clauses are going to be submitted to microscopic criticism, every word and every syllable in them will be passed upon, if it is in the interests of either of these companies to do so, and the question of jurisdiction is involved. So that is an appeal to the courts, because there is always such an appeal on a question of jurisdiction, unless it is taken away. If the power is not clearly set out, I think this may be questioned the first time that it is invoked on the point of abandonment of lines.

The CHAIRMAN: What would be your suggestion?

Hon. Mr. LYNCH-STAUNTON: My suggestion is this. If you wish to do that it should be so stated, because you have gone to the trouble of enumerating. When you express one you exclude the other. Notwithstanding you say, "not to control" the courts will say: Well, that may be so, but still Parliament has set out as far as it was able all the heads which will be considered. I think that the clause covering the abandonment of lines, services, and so forth should be more carefully drawn if it is intended to confer jurisdiction, because there is no jurisdiction conferred by section 17; that is merely directory.

The CHAIRMAN: You contend there is no jurisdiction in this Act authorizing the abandonment of lines?

Hon. Mr. LYNCH-STAUNTON: Authorizing the compulsory abandonment of lines by the arbitral board.

The CHAIRMAN: What answer have we to that? Senator Lynch-Staunton says there is no power conferred here to give the arbitral board authority to compel the compulsory abandonment of lines.

Right Hon. Mr. MEIGHEN: I will try to make my own view of the legal effect of this legislation as plain as possible. I call the attention of the committee first to what I may describe as the dominating clause, No. 16. I will summarize that clause as it now stands. It is to this effect: The National Company for and on behalf of its companies, and the Pacific Company for and on behalf of its companies, are for the purposes—I ask honourable members to concentrate on these purposes—for the purposes of effecting economies and providing for more remunerative operation, directed to attempt forthwith to agree and continuously to endeavour to agree, and they respectively are authorized to agree upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes.

Now, nothing can be done under clause 16 except something that tends towards the effecting of these purposes, namely mutual economies and more remunerative operation. Let us say that the companies get together in pursuance of this clause and with a view to effecting these purposes, and discuss a certain plan, measure or arrangement, and that they are not able to come to any conclusion as to a measure, plan or arrangement which to their several minds is fair and reasonable and best adapted to effect these purposes, having due regard to equitable distribution of burden and advantage. That means that a dispute will have arisen over some measure, plan or arrangement, a dispute as defined in this Act. Either one of the companies can take that dispute to the arbitral tribunal, and that tribunal is empowered under clause 17, in performance of its duty, to define the terms of the measure, plan or arrangement, and to

resolve that dispute. Such measure, plan or arrangement may have to do with any one of the seven things set out in clause 17. That is, if they have to do with:

- (a) joint use of terminals;
- (b) running rights and joint use of tracks where there are actual or functional duplications, or where such may be avoided;
- (c) control and prohibition in respect of the construction of new lines and provision of facilities and additional services where no essential need of the public is involved, or where the result would be in the main the division of traffic already adequately provided for;
- (d) joint use of facilities where this would promote economy or permit the elimination of duplication or unremunerative services or facilities;
- (e) abandonment of lines, services or facilities;
- (f) pooling of any part or parts of freight traffic or of passenger traffic; and
- (g) things necessarily incidental to the above enumerated matters.

Now, if my reasoning is right, that means that if the representatives of the two roads, in their effort to effect economies and more remunerative operation cannot agree upon the terms for the abandonment of lines, services or facilities, for instance, one company can say "We are going to take this to the tribunal". And if they do so, this clause empowers the tribunal to define the conditions which in their judgment will equitably distribute the burden and advantage, and thereby complete the measure, plan or arrangement having to do with the abandonment of lines, services or facilities, as the case may be. But the tribunal must be shown that the contemplated measure, plan or arrangement will contribute towards economy and more remunerative operation. The tribunal has no power at all to deal with a proposed abandonment of lines, services or facilities, or any other of the things mentioned in section 17, unless they are convinced that the matter can be resolved in such a way and on such conditions as will contribute to economy and more remunerative operation. So how can it be said that a road would be injuriously affected?

Hon. Mr. LYNCH-STAUNTON: I am not saying that as a result either line may be injured, but I say I do not think that clause gives them the right to cancel the franchise of any road over their line. Cancellation of franchise would be the effect if there was abandonment, because there would be no longer the right to operate over the line.

Hon. Mr. MURDOCK: Might not the abandonment of lines or a line be the logical sequence of paragraph (c) of clause 2, section 16, which says that the measures, plans or arrangements may include and be effected by means of joint trackage, running rights, and so on. Now, if that means anything it means the possibility of entering into an agreement that either the Canadian National or the Canadian Pacific from Sudbury to Port Arthur will be abandoned and that there will be joint trackage and running rights on the other line. That would be just a logical sequence, the abandonment of one line on account of arrangements entered into for joint trackage or running rights.

Right Hon. Mr. MEIGHEN: Yes, I think so. But if the Canadian Pacific was convinced that the abandonment of a certain mileage could not possibly be ordered upon terms that would contribute to economy or more remunerative operation, they could argue that before the tribunal and if the company could establish its point the tribunal would not have the power to direct the abandonment. I am sure that if Senator Lynch-Staunton were before the tribunal and could show that any arrangement they could make would not contribute to economy or more remunerative operation, then the tribunal would say "We have no power to make terms in these circumstances". The Bill does

not permit the making of an order that would result in injury to either line. Of course, the tribunal may err and do something that is more favourable to one road than to the other, or that is injurious to one line, but it has no power to do so intentionally.

Hon. Mr. LYNCH-STAUNTON: I am not raising the question here as to the justice or injustice, or as to whether or not the tribunal will have sufficient scope to take care of everybody. All I am pointing out now is this. If you wish to give jurisdiction over that particular subject to the board—that is an example—I do not think you have done it. I do not think you have given them jurisdiction to do that particular thing, because that involves a great deal more than the matter of economy. Has that board got power to cancel the franchise of the Canadian Pacific Railway by ordering them to abandon a line? They might authorize them to operate over another line; they might say “You will both use the same line,” but I do not see where you have given jurisdiction to them to tell either one that they must tear up their tracks.

Right Hon. Mr. MEIGHEN: This question is somewhat different from the point I was seeking to answer before. I will have this phase carefully looked into. Personally I think the authority is sufficiently fully expressed, but in case there is any doubt about that, we will have it fully expressed.

I hope Senator Lynch-Staunton has followed my argument to this point: he has agreed that there is no power given to any court under this Bill to do anything which in the judgment of that court would be of injury to either company.

Hon. Mr. LYNCH-STAUNTON: Oh, I quite agree with that. I am not raising that point.

The CHAIRMAN: The leader of the Government has made a suggestion—I think he blamed it on Senator Ballantyne—that it would be wise, perhaps, in the present condition, to go on through part 3 without adopting the first clause, and see if we have it in pretty good shape. Section 16 will stand with the consent of the committee on account of the question raised by Senator Lynch-Staunton, in order to enable the leader of the Government to investigate a little further.

On subsection 2 of section 17—Jurisdiction over a particular dispute.

The CHAIRMAN: Now, what discussion, if any, is there on subsection 2?

An arbitral tribunal shall have power and jurisdiction to settle and determine the dispute, between the National Company and the Pacific Company which it was erected to dispose of. It shall have power and jurisdiction also to determine the conditions of, and interpret and enforce all such measures, plans or arrangements as have been agreed upon or made between such companies pursuant to part 2 of this Act, whether or not such agreement was in consequence of an order of a tribunal.

Right Hon. Mr. MEIGHEN: That is to say, even though the companies came to an agreement themselves, the execution of that agreement is committed to the tribunal. They may have decided to do certain things and may have a dispute in the process of doing them. Then the tribunal has power to decide that dispute.

The CHAIRMAN: Do we approve of subsection 2?

Hon. Mr. McRAE: It seems to me that we have provided a method for settling the dispute, but I am reminded of the old saying that you can lead a horse up to the trough, but you cannot make him drink. In this case we appear to have provided for the drinking, but how are we to get them up to the trough? It seems to me that Mr. Beatty, in his evidence, said there were many ways of avoiding a controversy; that if either party did not wish to have it arbitrated,

they avoided getting into a difference over the matter. We have provided here for dealing with the dispute when it arises, but it seems to me that the whole effect of this Act depends on the faithful and enthusiastic co-operation of the two roads. Otherwise it fails.

Right Hon. Mr. MEIGHEN: How do you think we could make sure that there would be a dispute?

Hon. Mr. McRAE: I don't know. I am just asking that question.

Hon. Mr. CALDER: Mr. Chairman, I have another idea. I do not know whether it goes to the point or not. I will read what I have written just now:—

In the case of any dispute or disagreement arising between the National Company and the Pacific Company with respect to any of the matters referred to in section 16 of this Act, either or both companies may apply to an arbitral tribunal to settle and determine the same,—

Now I want to get in the idea that Senator Lynch-Staunton has been referring to again and again.

—provided, however, that in case either of such companies is of the opinion that the dispute is of such a character that it should not be referred for decision to an arbitral tribunal, such company may make application to the chairman of the board of Railway Commissioners—

You cannot say “the chairman of the tribunal,” because the tribunal is not constituted—unless you change the law and make him a permanent chairman to whom application can be made.

—such company may make application to the Chairman of the Board of Railway Commissioners to decide, after hearing the parties interested, whether or not the dispute in question is of such a character as to necessitate of its being decided in the public interest by an arbitral tribunal.

What I have in mind is that the Bill as drafted must necessarily be very general and sweeping in its terms, and it is possible that we do not know just what questions will be raised, what their character will be, how they will affect one company or the other company. Now, it is merely proposed that if either of the companies take strong ground that this is not the character of dispute that should be settled by an arbitral tribunal, then they should have the right to go to the person who will be the chairman of the arbitral board, and who will have the right to decide whether or not in the public interest it is necessary for the question to be decided.

The CHAIRMAN: Won't you have the same man the head of both boards?

Hon. Mr. FORKE: The criticism has been that there is such tremendous power given to one man. You are giving him more now.

Hon. Mr. CALDER: He has all that power now. Every question in dispute has to go there now.

The CHAIRMAN: Would not he be referring the things from himself to himself?

Hon. Mr. LYNCH-STAUNTON: Under what we used to call the rule nisi a man who lost a case could go to a court ex parte and say: I think I ought to be allowed to appeal. He would not have his opponent there at all. The court would say: We do not think there is anything sufficient in this to let it come up before the court at all. Senator Calder's proposal is something like that.

Hon. Mr. CALDER: Yes. We do not know what questions will arise, we do not know what will be the character of some of the disputes, nor do we know what may be involved in them. I am trying to make a provision that will create a saving situation. In other words, either company when they cannot settle a dispute may say: This question is of such a character that we do not

wish it settled by a tribunal. All I suggest is that that question as to whether or not it is in the public interest that it should be settled by a tribunal shall be provided for.

Hon. Mr. GORDON: Mr. Chairman, I think I can help my friend out by giving this suggestion:—

In the event of representatives of the National Company and (or) the Pacific Company failing or finding it impossible to reach an agreement on proposed essential economies as provided in this section, they may or shall submit this matter, the question of differences in dispute, to an arbitrator to be mutually agreed upon by the National Company and the Pacific Company.

The decision, of course, of the arbitrator to be final and binding.

Providing the companies cannot or do not agree upon such an arbitrator within a reasonable time the Railway Commission shall ipso facto become arbitrator.

Hon. Mr. BALLANTYNE: That has been voted down.

Hon. Mr. GORDON: It may have been, but I make that as a suggestion.

Hon. Mr. MURDOCK: That is different.

Hon. Mr. GRIESBACH: Is it not a fact that the Chairman of the Board of Railway Commissioners upon such application being made to him would only ask himself the question as to whether or not the difference of opinion affected economies and provided for more remunerative operation? If the difference between them did so affect economies and more remunerative operation, he would have to rule that the matter should go to arbitration.

Hon. Mr. CALDER: All right. But after all the question in dispute is easily ascertained. The person can state what the dispute is in very few words. Either company may hold that that dispute is of such a character that an arbitral tribunal should not have the right to determine it; but that view may be overridden by the Chairman of the Board of Railway Commissioners. He may say: Yes, it is in the public interest that it should be settled, I do not agree with you at all. I am trying to put in the law some safeguarding provision. Senator Meighen said to Senator Lynch-Staunton: If you can find some provision that you think will take care of dangers you think will exist, go ahead and do so. That is what I am trying to do, to put some provision in the law that will save situations that may arise. We do not know whether they will arise or not. If they do arise, there is this provision that the Chairman of the Board of Railway Commissioners may determine that it is in the public interest that they should be settled.

Right Hon. Mr. MEIGHEN: I quite see what the senator has in mind. He wants to introduce a competent authority to decide whether a specific dispute should go regularly and formally before a tribunal, and that competent authority he suggests is to be the Chairman of the Railway Commission who, if there is a tribunal, will be the chairman of that tribunal. Suppose that case arises and the Canadian National go to the chairman and say: We want this dispute decided by a tribunal; the Canadian Pacific, on the other hand, will not agree to our terms, and they also do not think we ought to have a tribunal, but we ask for a tribunal. Now, the question before the chairman would be this: Can there be a settlement of that dispute such as will contribute to mutual economies and more remunerative operation. That would be the question before him. Can he decide that ex parte? If he can, well and good. If he could simply hear the Canadian National counsel and say, "Yes, I think there can be," the Canadian Pacific would say, "You never heard us."

Hon. Mr. CALDER: I say after hearing both parties interested.

Right Hon. Mr. MEIGHEN: Then that is really a hearing of the case. Unless it can be done *prima facie*, I do not think anything can be done at all. The case is whether or not there can be mutual economies and more remunerative operation, and he would have to hear both sides of the evidence in extenso in order to conclude whether or not that object can be effected. So he is really going to try the case first, and then try it again next. I think that is one of the things he will have to decide after hearing all the evidence. If he decides the object cannot be reached along the lines claimed by one of the companies, then he has no power at all to make any order. If he decides the object can be reached, then he says it can be reached and I have power to make terms, and this is my order.

Hon. Mr. CALDER: I would not think the chairman of the board would have to go very extensively into the evidence.

Hon. Mr. LYNCH-STAUNTON: He would not go into the evidence at all on your application.

Hon. Mr. CALDER: Not as I see it. After all, there is a dispute about a specific thing. I do not ask at that stage to settle the dispute.

Hon. Mr. LYNCH-STAUNTON: He would have to assume on that application that the statement made to him is correct, and then say: Should this be arbitrated.

Hon. Mr. CALDER: Yes, exactly. I mean it would not be necessary to hear evidence in extenso at all, but simply to decide whether the question itself was of such a character that in the public interest as well as in the interest of the railways, it should be settled. The Bill provides that every one of these applications must be settled.

Hon. Mr. GRIESBACH: But the Chairman must first determine that he has got jurisdiction.

Hon. Mr. CALDER: I am assuming that he has got jurisdiction.

Hon. Mr. GRIESBACH: He must decide whether the dispute concerns a matter having to do with economies and remunerative operation. If he holds that it is not, he refuses an arbitral tribunal; and if he holds that it is, he orders a hearing.

Hon. Mr. CALDER: There may be a question in dispute involving economies and increased revenue, and notwithstanding the fact that it comes within the four corners of the section governing the thing, either company may say "This dispute is of such a character that in our opinion it should not be settled by an arbitral tribunal." A dispute may have to do with any or all of the things mentioned in the Bill, and still be of such a character that it should not be settled by an arbitral tribunal. I cannot give a concrete example, because I do not know what is going to happen. But let us say that the two roads cannot agree upon a certain point. Suppose the Canadian National says, "We want this and that," and the Canadian Pacific says "We do not agree." Then the National goes to the arbitral tribunal.

Hon. Mr. BALLANTYNE: Maybe.

Hon. Mr. CALDER: That is what the law says.

Hon. Mr. BALLANTYNE: If the Chairman of the Canadian National does not agree with something proposed by the Canadian Pacific, it is for him to say whether he wants to refer it to the arbitral tribunal.

Hon. Mr. CALDER: Suppose he does want to refer it.

Hon. Mr. BALLANTYNE: Suppose he does not.

Hon. Mr. GRIESBACH: The Chairman of the Board must determine his jurisdiction first.

Hon. Mr. CALDER: I am assuming that he has got jurisdiction.

Hon. Mr. GORDON: Mr. Chairman, may I say a few words—

The CHAIRMAN: There has been a lot of talking which is not audible to all the members, and I would ask those who speak to stand and talk so that they may be heard all over the room.

Hon. Mr. CALDER: Before Senator Gordon proceeds, may I finish the point that I had in mind. I will cite a hypothetical case that probably would not arise. Let us say the Canadian National took the view that the Canadian Pacific should abandon its line between Port Arthur and Winnipeg, and use the National line and help pay for the upkeep of it.

Hon. Mr. GRIESBACH: That would be within the jurisdiction.

Hon. Mr. CALDER: That would be absolutely within the jurisdiction and the object would be the effecting of economy. The Canadian Pacific would probably object to having such a proposal brought before the arbitral tribunal. They would likely say "We are absolutely opposed to any such thing." Yet, if the application were made to the Board the Board must make a decision, which would be final. Now, my suggestion is this that where such a situation exists the company that is opposed to a decision on that question by the arbitral tribunal should first apply to the Chairman to decide as to whether or not the dispute is of such a character that it should be resolved by the tribunal in the public interest.

Right Hon. Mr. MEIGHEN: If you provide for that in the Bill you would have to stipulate the terms upon which the Chairman would decide whether or not the matter should go before a tribunal. Upon what ground could he decide? He could not decide against the application merely because one company is opposed to it.

Hon. Mr. CALDER: That is one reason I would like to have Mr. Beatty here. I would like to question him upon this matter.

Right Hon. Mr. MEIGHEN: His representative is here.

Hon. Mr. CALDER: I do not know that he is prepared to speak. I listened to Senator Lynch-Staunton this morning, and he has in the back of his mind an idea that some injustice may be done. All I am trying to do is to have some provision made whereby when the law is passed it would be so worded that it would be impossible to effect an injustice along the line I have indicated.

Hon. Mr. GORDON: In my opinion, the weakness with regard to a standing arbitral board is this. Occasions may arise where an ordinary business man would be the best arbitrator, and other occasions where a lawyer would be the best arbitrator. Therefore I am of the opinion that if the companies themselves are left to select an arbitrator who will suit both of them, they will get over many difficulties in a quick and quiet way. If they cannot agree upon an arbitrator, then the matter could be referred to the Railway Board.

The CHAIRMAN: You and I are not lawyers, Senator Gordon. Do you think there is any danger that in the multiplicity of counsel we are going to get so much machinery that nobody can understand it and we will spoil successful operation?

Hon. Mr. GORDON: If you adopt my method you will have very little machinery.

The CHAIRMAN: I was just asking your opinion.

Hon. Mr. GORDON: That is my opinion, and I have given you my method.

Hon. Mr. LYNCH-STAUTON: Now, Mr. Chairman, what Mr. Calder is getting at, as I understand him, is this. There may be some matter upon which the two companies disagree, and one may say that it is not a matter that should be decided by a board, not only in the public interest, but that under the Act it should not be decided by the board. All kinds of difficulties will be raised, and perhaps they will spring something that nobody ever thought of. The

National Company will go to the C.P.R., or the C.P.R. will go to the National, and will say, "We want you to agree on this." The other company will say, "Why, that is not a matter for arbitration at all; that is not a matter contemplated by the Act." But they persist, and they bring the matter up before the board, and the other company has to go to all the expense and trouble and waste of time of preparing for a case which eventually may be thrown out.

Now, what I understand this to mean—and it is the reason why I would be in favour of it—is that if one company wants to go to the arbitral board without the concurrence of the other company, then it should be bound to prepare a statement of what it wants discussed and decided, and should submit that to the chairman of the Railway Commission.

Right Hon. Mr. MEIGHEN: That is the way it is initiated now under the Act.

Hon. Mr. LYNCH-STAUNTON: And the chairman is *persona designata*, and can say, "Well, now, I think that is a question which is within the law; it is a question which I think should be presented, argued, and decided by this board." On the other hand he may say, "I think, by reason of public interest, that it is not a question that comes within the spirit of the law, and I do not think you should be entitled to bring these people here to go over all the evidence, because it is a matter which in the end I have decided I would throw out anyway." And he has power to throw it out.

I think the argument is that the chairman of the Board of Railway Commissioners should be satisfied, first, that it is not a frivolous appeal, and that it is within the law. For a long, long while the practice of the courts of England, and the courts of Canada, when a man wanted to bring a matter solemnly before the Court of Appeal, was for him to go there by himself, or by his counsel, and to say, "Now, this is a matter in which I am entitled to an appeal," and he had to satisfy the court that he had an appealable case. He did not have to satisfy the court that he would win, but that it was a case which they should entertain.

The CHAIRMAN: May I ask something there? I have not got the legal acumen that you men have. If the chairman of the Board of Railway Commissioners and the chairman of the arbitral tribunal are one and the same person, as they are, and if, as chairman of the Board of Railway Commissioners he can say whether or not it is a case that should go before the tribunal, couldn't he as chairman of the tribunal say whether it should be heard by the tribunal or not?

Hon. Mr. LYNCH-STAUNTON: It would be in conformity with the old practice in the courts to do what you suggest. It would make no difference which capacity he was acting in when he dealt with it. In the case of the courts they always went before the court to which they intended to appeal.

Again and again you see applications made for leave to appeal to the courts in England from our Supreme Court or some other court. More than once I have myself made an *ex parte* application to the Court of Appeal in England to be allowed to appeal from the Supreme Court of Ontario or the Supreme Court of Canada. Judicial bodies have endorsed that practice and said it was wise. You must get leave, and you do it *ex parte*.

Senator Calder has suggested that if we come to the conclusion that that is to be done—

Hon. Mr. CALDER: Will you pardon me a second until I get one point cleared up? If a dispute arises and an application is made to an arbitral tribunal for the settlement of that dispute, under the Bill as it stands has the chairman of the arbitral board power to say "I won't hear that," except on the question of jurisdiction?

Hon. Mr. LYNCH-STAUNTON: No, he hasn't.

Hon. Mr. CALDER: He cannot throw it out on the question of its merits.

Hon. Mr. LYNCH-STAUTON: He is bound to hear it.

Hon. Mr. CALDER: Yes, and bound to decide it.

The CHAIRMAN: That is by the Act as it is drawn. But we are changing that in many ways.

Hon. Mr. LYNCH-STAUTON: If one person launches an appeal the other side must come there prepared to argue it and give evidence, and the tribunal has no power to throw it out without hearing the whole case. But your idea is that the court should have the power to do so if he thought that the complainant did not on his own showing make out a case for arbitration.

Hon. Mr. BALLANTYNE: And you would not hear the other side at all?

Hon. Mr. LYNCH-STAUTON: No, unless he makes out a *prima facie* case. That is the practice in the courts. What Mr. O'Connor says is that the man who will be the president of the tribunal may, upon compliance with rules to be made by him under the Act, quash any dispute which appears to him to be not in the public interest or that is frivolous.

Hon. Mr. GRIESBACH: What is the guide in determining whether it is in the public interest?

Hon. Mr. FORKE: It puts him in a rather dangerous position.

Hon. Mr. LYNCH-STAUTON: It may not be worth while, but I think that if Senator Calder's view is adopted, we should limit it; should give them the right of *ex parte* application to decide whether or not it is in the public interest or is frivolous, so as not to bring the other side to argue something—and thereby put them to great expense—that the chairman in the end might say should never have been brought before him.

Hon. Mr. CALDER: If he decides that it is in the public interest, well and good.

Hon. Mr. LYNCH-STAUTON: And not frivolous.

Hon. Mr. BALLANTYNE: Suppose you are a judge on the Bench, and you say "I want to hear only one side then I will make up my mind," what kind of justice will that be?

Hon. Mr. LYNCH-STAUTON: I cannot do that, but when I have heard one side I can say I won't call on the other side.

Hon. Mr. BALLANTYNE: But is that fair?

Hon. Mr. LYNCH-STAUTON: That is not the point, Senator Ballantyne. The point is he goes before this man who is a judge and understands his business, and he says to him: Here is a case I want to bring up before you. The judge will look over the Act and he will say: That is a good case, we ought to hear what you have got to say about it.

Hon. Mr. CALDER: It is in the public interest.

Hon. Mr. LYNCH-STAUTON: Yes.

The CHAIRMAN: Would he be prejudiced in that event after hearing half of the case?

Hon. Mr. LYNCH-STAUTON: He will not hear it at all.

The CHAIRMAN: It will be a *prima facie* case, as you call it.

Hon. Mr. LYNCH-STAUTON: No competent judge ever makes up his mind until the other man is present at all events. The application only goes to the character of the dispute. There might be something in it, I don't know.

Hon. Mr. BEAUBIEN: I do not understand the proposition. It seems to me that the law must govern the judge, and I cannot understand a law that creates a judge over it. If there is a dispute between the two railway companies, and one wants to cite the other before the arbitral tribunal, that case must be within the four corners of the jurisdiction given.

Right Hon. Mr. MEIGHEN: That is right.

Hon. Mr. BEAUBIEN: If it is within the four corners of the jurisdiction as established by the Bill, my own opinion is that the judge has absolutely no discretion at all, he must hear the case. Is that right?

Hon. Mr. GRIESBACH: Yes.

Hon. Mr. BEAUBIEN: If you want to go beyond that and say to the judge: Even if the dispute falls within the four corners of the jurisdiction you can, if you want to, say there shall be no arbitration. In that case what do you do? You place the judge over the law.

Hon. Mr. LYNCH-STANTON: No you don't.

Hon. Mr. BEAUBIEN: Yes you do, because then the judge is not guided by the law any more. The judge in a case clearly falling within the jurisdiction would say: There will be no arbitration. This in my opinion places the judge in a sphere altogether above the law. Are you going to leave him free in that sphere? Will the judge have no limits than his discretion, being so placed above the law? It is quite evident that you cannot do it. Therefore when the judge takes it upon himself in a case within the jurisdiction to say: There will be no arbitration, you legislators feel yourselves bound to create a new jurisdiction for that state of things. If you do not do that the judge is absolutely master, he has no fetters, he has no boundaries, he can say to a railway company that presents a case clearly within the jurisdiction of this law: No, there will be no arbitration. Is that position possible at all? It seems to me you cannot even conceive of a position like that. The judge is there to see that the law is observed, not to create the law. Otherwise he would be nothing less than a tyrant, there would be nothing to guide him and nothing by which to judge him. Therefore I say if the proposition of my learned friend is restricted simply to this of presenting a case that falls within the four corners of the jurisdiction then the president of the Railway Commission may say: This is not in the public interest.

Hon. Mr. LYNCH-STANTON: Or it's frivolous.

Hon. Mr. BEAUBIEN: He may say: This is not in the public interest and I shall not grant you arbitration. I say you must write that within the law. It is because you have not made your jurisdiction what it should be. If you insist that in cases where you can effect economies and provide for more remunerative operation, and it is in the public interest, you must write into the law the jurisdiction within which the judge will revolve. You cannot do otherwise. That is my humble opinion. To create a man above the law would be an unknown thing, and without the slightest justification.

Right Hon. Mr. MEIGHEN: Mr. Chairman, I am in complete agreement with Senator Beaubien. That is why I asked Senator Calder the question: If you are going to give some special preliminary authority to the chairman of the tribunal, or the chairman of the Railway Commission, whichever you like, you must give him some basis in law upon which to exercise such authority. It is suggested, and it is in this amendment, that it would be wise to enable him to stop an application for a tribunal before all the machinery is gone through and the tribunal appointed, on the ground that in his judgment it is not something that should come before the tribunal. I am inclined to think that probably it would be wise to do that, so that he would be in a position to say whether or not this is a dispute which under the Act as passed should be urged, and to say so before things got so far that a tribunal is regularly constituted and all three members there. I do urge, though, if we do that the power to quash, that is to say to determine that it is not something that should go to the tribunal, should be based only upon the ground that it is not a dispute as constituted by the Act.

Senator Beaubien goes further, and I think he is right in the terms he uses. If we want to give the judge authority to quash before a tribunal is created, then to do so on any other grounds than merely because it is not a dispute within the four corners of the Act, we must give him that authority in the Act and enable him to say it is not something to be heard in the public interest. I would be averse to give him that authority, because while he would have legal power to decide, it would be putting him not only above the law but above Parliament.

Hon. Mr. FORKE: Have not we abolished the grand jury?

Right Hon. Mr. MEIGHEN: We have in certain provinces; but this would be putting him on a pedestal above Parliament itself, and he would be deciding what could and what could not be heard. He could use his own free will as though he were Jove on high Olympus and say: Parliament has given me power to decide whether it is in the public interest or not, and I am going to use that power. I would never become responsible for legislation of that kind. I do not think we can go further than give him preliminary power to quash only on the ground that no dispute can be laid before him which can be so described within the four corners of this legislation.

What Senator Lynch-Staunton has referred to is the old practice under which in appeal an *ex parte* application was made. But this is not a case of giving leave to appeal: this is a case of quashing. Quashing is always done after hearing both sides; and before a judge decides that this is something that should not be heard because it is not within the purview of this Act, the other side should be heard too. I would give him power to quash because it is not a dispute within the Act.

We can prepare an amendment to carry that out.

The CHAIRMAN: After hearing this discussion I suppose an amendment can be prepared. This committee usually arrive at pretty sane conclusions.

Hon. Mr. STANFIELD: What about Senator Gordon's resolution?

The CHAIRMAN: Is there any further discussion on clause 17? If not, perhaps we may as well adjourn. We can expect to have the proposed amendment to clause 17 ready when we meet again.

Hon. Mr. MURDOCK: Mr. Chairman, would we not be in a better position to discuss the Bill if we had a reprint of all that we have done so far? Considerable amendments have been made to Parts I and II, and I would like to be better informed as to just what we have done before we make a definite decision upon Part III.

The CHAIRMAN: That will have to be done as soon as we get through.

Hon. Mr. MURDOCK: But that will be too late to serve any purpose here. I think we should have clearly before us what we have done so far before we dispose of Part III.

Right Hon. Mr. MEIGHEN: We have a record here of everything that we have done. I think we had better wait till we get through before we have a reprint.

The committee adjourned until 11 o'clock to-morrow morning.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 10

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1933

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND HARBOURS

The Rt. Honourable GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	L'Espérance
Barnard	Lynch-Staunton
Beaubien	McArthur
Béique	Marcotte
Béland	McDonald (<i>Shediac</i>)
Bourque	McLennan
Buchanan	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Dennis	Murphy
Donnelly	Paradis
Forke	Pope
Gillis	Rankin
Gordon	Raymond
Graham	Robertson
Green	Robinson
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Laird	Turgeon
Lacasse	Webster.
Lewis	

[Quorum 9]

THE SENATE

THURSDAY, February 9, 1933.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A, intituled: "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 11 a.m.

Right Hon. Mr. Graham in the chair.

The CHAIRMAN: Gentlemen, we were in a somewhat indefinite way at the sub-clauses of section 17.

Hon. Mr. STANFIELD: Mr. Chairman, before you proceed I desire to ask a question. The morning papers announce that the Senate Committee yesterday definitely decided on the principle of an arbitral tribunal. I have followed the proceedings very carefully and I am not aware that any such decision has yet been taken. Is the newspaper announcement correct?

The CHAIRMAN: It would depend on how you read the speeches that were made here yesterday. Some honourable members thought that the putting of Senator Murdock's amendment that the Board of Railway Commissioners should be substituted for the tribunal would decide the principle. That amendment was lost. But we have not yet finally decided the advisability of having any arbitral tribunal.

Hon. Mr. STANFIELD: That is what I thought.

Hon. Mr. MURDOCK: Mr. Chairman, yesterday there was a good deal of discussion about the abandonment of lines, and particularly I think Senator Calder and Senator Lynch-Staunton discussed the matter at considerable length. I have learned that recently this particular question has been ruled upon by the Board of Railway Commissioners. I think possibly this committee should have the benefit of that decision. It is not very long and if there is no objection I will read the commissioners' order.

The CHAIRMAN: I think it would be helpful, although if we pass legislation under which the arbitral tribunal could order the abandonment of lines, would it not override the Railway Act?

Hon. Mr. MURDOCK: The point I am making is that the Board of Railway Commissioners in this judgment appear to hold that right now a railroad can abandon a portion of its line.

Hon. Mr. GRIESBACH: There has never been any dispute about that.

Hon. Mr. MURDOCK: I think some exceptions have been taken to that view. May I read this judgment, Mr. Chairman?

The CHAIRMAN: Please.

Hon. Mr. MURDOCK: This is a judgment by Mr. Fullerton, Chief Commissioner of the Board of Railway Commissioners for Canada:—

By orders of the Board dated October 9, 1931, leave was granted to the Canadian Pacific Railway Company to remove its agents at Mono Road station and Caledon station. Both situate on its Owen Sound subdivision between Bolton and Melville. Both orders were conditional upon the appointment of caretakers.

On September 24, 1931, and prior to the making of the orders in question, Mr. Flintoft on behalf of the Canadian Pacific Railway Company notified the Board that unless there was a material improvement in the earnings of this branch within the next couple of months the company would be forced to abandon its operation. Subsequently, the earnings proving unsatisfactory, the company abandoned the line.

On September 14, 1932, an application was filed with the Board on behalf of the townships of Caledon and Albion,

for a hearing of their complaint that the orders of the Board requiring the Canadian Pacific Railway Company to maintain caretakers at the stations at Caledon and Mono Road are not being complied with, and that a reasonable and proper service is not being maintained on the line through these stations.

To this application the Canadian Pacific Railway Company answered that the line upon which the stations in question are located had been abandoned.

The applicants question the right of the company to abandon without the authority of the Board. The company maintains that the Board has no jurisdiction to prevent abandonment.

The line of railway upon which the said stations are situated and which has been abandoned, is that portion of the old Toronto, Grey and Bruce Railway between Bolton and Melville, a distance of 19.1 miles. This company operated a line of railway from Toronto to Owen Sound via Bolton, Melville and Orangeville. The Canadian Pacific Railway Company took it over in 1881 and until recently operated trains from Toronto to Owen Sound by way of this line, and also operated trains between Toronto and Owen Sound by a line running via Streetsville and Brampton connecting with the old Toronto, Grey and Bruce line at Melville. The portion of the old Toronto, Grey and Bruce line between Toronto and Bolton is now the main line of the Canadian Pacific Railway Company between Toronto and Sudbury. The line between Bolton and Melville has a maximum grade of 2.2 per cent, and the maximum grade on the line between Toronto and Owen Sound via Brampton is 1 per cent.

In view of the fact that the earnings on the portion of the line between Bolton and Melville were entirely insufficient to meet operating expenses, the Canadian Pacific Railway Company abandoned that portion of its line and is now carrying all its traffic from Toronto to Owen Sound by way of Brampton.

On this state of facts two questions arise:—

1. Whether the Board has jurisdiction to compel the Canadian Pacific Railway Company to operate the line between Bolton and Melville, and
2. Assuming it has jurisdiction, do the facts in evidence justify an order?

It will be unnecessary to consider the second question because I am clearly of the opinion that the Board has no such jurisdiction.

In *Rossland Board of Trade v. Great Northern Ry. Co.*, 28 C.R.C. 24, this Board held that,

Unless the special act of incorporation provides that a railway shall be continuously operated, the Board has no jurisdiction to compel a company, which has discontinued the operation of its railway owing to a deficit, to resume such operation, even though the public interest is seriously affected by reason of the discontinuance.

In the great majority of cases acts incorporating railway companies are enabling acts and do not obligate the companies either to construct or operate the whole or any portion of the projected railway.

The jurisdiction of the Board must be found within the four corners of the Railway Act and unless there is to be found in that Act some specific section, or sections, giving the Board jurisdiction to prevent the discontinuance of the operation of a railway, the Board clearly has none.

There is more, but I think that is all that it is necessary to read.

The CHAIRMAN: That means that unless the authority for construction of a railroad includes a clause which says it must be continuously operated, the company can abandon the line without asking the Board of Railway Commissioners.

Right Hon. Mr. MEIGHEN: Mr. Chairman, the labour men have spoken to me again on a phase of the Bill with which this is closely related. I would like to have that decision elaborated a little by Mr. Flintoft, who took part in it and who is here. An elaboration by him would be of use to me, and probably to all other members.

The CHAIRMAN: Mr. Flintoft, can you give us some further illumination on this question?

Mr. FLINTOFT: Mr. Chairman and gentlemen, the decision that Senator Murdock refers to had to do with a section of our line about nineteen miles long, running from Bolton to Caledon, the old Toronto, Grey and Bruce railway which originally extended from Toronto on to Owen Sound. It runs up over what is known as the Caledon Hills, of which you probably all have heard.

Hon. Mr. DONNELLY: The horse shoe.

Mr. FLINTOFT: Yes.

Hon. Mr. CALDER: Is it a short branch?

Mr. FLINTOFT: This particular link between Bolton and Caledon is about nineteen miles long. It is part of the old original line that extended from Toronto to Owen Sound, built by the Toronto, Grey and Bruce Railway away back in 1868. This particular link was rendered unnecessary by reason of the fact that we had the line around up through Streetsville, the Credit Valley. What was originally a branch of the Credit Valley runs from Streetsville up through Brampton, Cataract and Melville. Well, this line up over the Caledon Hills, as the judgment points out, has a grade of 2.2 per cent, while the other line has a much more favourable grade, so much so that an engine which could haul six passenger cars over the hills could take nine cars the other way, and an engine that could haul some four hundred tons of freight over the hills could haul more than seven hundred tons the other way. There were just the two stations of Mono Road and Caledon between Bolton and Melville.

The line to Bolton is now part of our line to Sudbury and is used for all the traffic between Toronto and the West. Investigation showed that a very considerable saving could be effected by abandoning this line, upon which originally when traffic was heavier there was a double daily service to Owen Sound, and a double daily service the other way around to Teeswater, they both coming together at Orangeville.

Hon. Mr. GRIESBACH: How far were the parallel lines apart from this abandoned line?

Mr. FLINTOFT: Of course, that whole country is criss-crossed with railways. The Canadian National is all in through there too. At the widest part, I should say it was about twenty miles, but I really could not say definitely. They are converging, you see, on Melville, one from the southeast and the other from about the south.

Another development was the highways, what they call the centre road up through Brampton and Caledon right up to Orangeville and on to Owen Sound, the main highway connecting with the Dundas highway out of Toronto, which runs right through the centre of that territory.

Hon. Mr. CALDER: Can you show us the situation on this wall map here?

Mr. FLINTOFT: I am afraid the map is on too small a scale, but I can show you where the territory is. (Mr. Flintoft points out location of abandoned line and existing nearby lines.)

As I was saying, the provincial highway, a paved highway known as the Dundas highway, runs between Hamilton and Toronto, and from Cooksville, I think it is, a so-called middle road runs, which is now a provincial paved highway, right up through Brampton, Caledon and Orangeville. It is paved to a point north of Orangeville and is improved right to Owen Sound, and it is the main artery north and south through that district. The result of all this was that the traffic from the territory served by the Bolton-Melville line was practically dried up—at least, it was very seriously reduced and we had only a few cars of freight a year. The farmers truck all their cattle and produce, practically everything they handle, in and out of Toronto. The only thing we get or did get was the odd car of coal, or some heavy traffic of that sort. The result was that they decided to abandon the service on the link between Bolton and Melville, and combine it with the service via Streetsville, Brampton, and on out that way. That was the question involved.

The townships complained, and a question arose as to whether there was anything to compel the company to continue operating that line. That question has been before the board on a number of occasions, and it has been decided that in the absence of a statutory requirement that a company should operate its line continuously, the board cannot compel it to operate the line at a loss. As it was, in that case we were losing many thousands of dollars every month in the operation of the line.

I think the underlying principle is that the railway company risks its capital and is pretty sure not to abandon a line as long as there is any hope of making anything in the way of a return on its capital; but when it gets to the point where it is losing a great deal of money in that way, no authority would seek to compel it to continue, especially when the territory is served as this is—because there are criss-cross lines in that territory. The general principle is that the railway takes the responsibility of risking its capital on the venture, and if the venture turns out to be a poor one, it is the biggest loser.

Right Hon. Mr. MEIGHEN: That is the point that I wanted. It seems clear, then, that there is no power vested in the Railway Commission to prevent the abandonment of a line?

Mr. FLINTOFT: No.

Right Hon. Mr. MEIGHEN: Is there any power of that character that would prevent, for example, the abandonment of one terminal in favour of another terminal?

Mr. FLINTOFT: There is a provision in the Act, sir, in regard to the abandonment of terminals, to the effect that compensation shall be made to employees.

Right Hon. Mr. MEIGHEN: We are preserving that. But aside from that could they say you must not abandon the terminal at all?

Mr. FLINTOFT: That would be a matter of service to the public, I should say.

Right Hon. Mr. MEIGHEN: So is the railway.

Mr. FLINTOFT: Well, yes. But the whole scheme of the Railway Act is that it deals with railways in operation. So long as you undertake to operate a railway you come under these provisions with regard to facilities—and that deals with terminals—but there is no authority to compel you to build a railway that you have charter authority for, or to continue operating a railway that you have built, unless your charter so states.

The CHAIRMAN: The only punishment would be to cancel the authority?

Mr. FLINTOFT: Yes.

Right Hon. Mr. MEIGHEN: Then it would be fair to say that there is no jurisdiction now in the Railway Commission which would be taken away by this Act and given, in effect, to a tribunal, except jurisdiction in respect of

employees at terminals, who have certain rights in the event of abandonment. There is no jurisdiction to compel operation of this feature or that feature of the road which the company itself knows it cannot maintain on account of losses?

Mr. FLINTOFF: I think that is a fair statement.

Right Hon. Mr. MEIGHEN: The reason I am asking is that it is argued that this Bill puts into the hands of the tribunal powers affecting employees of the road which formerly were under the custody of the Railway Commission and consequently under the custody of a board on which they were more fully represented. As far as I can get your presentation of the law, that is not a fact?

Mr. FLINTOFF: No.

Right Hon. Mr. MEIGHEN: Insofar as they have been safeguarded in the past by the Commission, they are still safeguarded by the Commission?

Mr. FLINTOFF: I would think so.

Hon. Mr. DONNELLY: Would the fact that the line proposed to be abandoned had been bonussed by the municipalities it served make any difference in the ruling?

Mr. FLINTOFF: There are bonuses involved in this case, sir, but the contention was that the obligation under those agreements had been fulfilled. As a matter of fact, the bonuses were granted in 1868 by way of an issue of twenty-year bonds, which had been paid off nearly forty years ago, and the railway had continued to operate for over forty years.

The CHAIRMAN: They had a benefit equal to the amount of the bonds?

Mr. FLINTOFF: That was the contention.

Hon. Mr. DANDURAND: But if a railway company abandoned a line definitely, then the legislature or Parliament could charter another company to cover that same territory.

Mr. FLINTOFF: Oh, yes.

The CHAIRMAN: To my mind this raises a new question. I am glad Senator Murdock brought it up. I did not believe that the law was as the judgment pronounces it to be. As has been intimated by Mr. Meighen, the knowledge of that judgment as to the power of the Board of Railway Commissioners may affect some of the clauses we have in the Bill.

Right Hon. Mr. MEIGHEN: It makes the road a good deal clearer to me than it was before. Thank you very much.

Now, in respect of the amendment urged yesterday by Mr. Calder, and argued for by Senator Lynch-Staunton, there will be proposed an amendment to come at the end of the Bill. I am not proposing it now, but am just giving notice of it so that you can think it over. It will be clause 26, and it reads:—

The Chief Commissioner may, at any time after application for the erection of a tribunal and upon hearing the parties concerned, quash any alleged dispute which in his opinion is wholly frivolous or vexatious or is not within the jurisdiction of a tribunal. An appeal shall lie to the Supreme Court of Canada against every such quashal of a dispute.

Hon. Mr. CALDER: Would you state again, Senator Meighen, what the position is with regard to terminals? I do not quite understand it. There is the one case where there are two terminals in one city, and they decide to have only one terminal; then there is the other case where one company decides to move a terminal to another town. Do both of those cases come under the jurisdiction of the Railway Commission, or can the company act without reference to the Commission?

The CHAIRMAN: They cannot move a terminal without granting compensation to the employees affected by that removal.

Hon. Mr. CALDER: I understand that.

Right Hon. Mr. MEIGHEN: As I gather from the statement Mr. Flintoft has presented, the principle of the Act is this. The Railway Commission have power to see that service is reasonably adequate, if the railway is maintaining the road and operating it; that that would apply to all features of the service including terminals, and if the Railway Commission felt that certain changes of terminal facilities were unjustified from a public standpoint they could intervene. I would think it altogether improbable that such intervention would take place, for the reason that the railway would not be doing it if it were not justifiable having regard to economy and the public service; but that they could apparently is correct from what Mr. Flintoft has presented.

In so far as the men are concerned, their rights in the premises are just the same as they were before this bill was passed. They are specifically reserved under this bill. I do not think we need worry on that feature of the bill any longer. We are not placing the men or the public in the hands of the new tribunal instead of in the hands of the Railway Commission, except in the settlement of a dispute.

Hon. Mr. CALDER: In this case, we will say, there are two railway terminals in Ottawa. So long as the road is running they have the terminals, and from the public standpoint they must continue to use those terminals or a terminal.

Right Hon. Mr. MEIGHEN: Yes.

Hon. Mr. CALDER: Under this Bill two companies are allowed to get together and arrange a joint terminal; that may affect the public. I quite understand the situation so far as the men and their property are concerned; but are we taking away the jurisdiction of the board in granting them power under this part to co-operate and use one terminal?

Right Hon. Mr. MEIGHEN: I would answer that in this way: If it is an element in the dispute that arises which goes to the new tribunal, then we are; but as respects the men, no. They are under the Railway Commission just as they were before with all their rights.

Hon. Mr. MURDOCK: You are right. Senator Meighen, partially, I think. But let us for a moment take the question discussed yesterday of the possible abandonment by the C.P.R. of their line between Sudbury and Fort William. If that were done and the business in future all went over the Canadian National Railway, then under an existing regulation in the Act the men at the terminals at Cartier, Chapleau and Schreiber might have a case to bring before the Board; but as employees, as railroad men between Sudbury and Fort William, all of their work, present and future, would be gone glimmering. There is nothing in the Railway Act that would conserve or allocate a portion of that work to those men for the future. That is one of the things that the men are very much concerned about.

Right Hon. Mr. MEIGHEN: That is right; but as the law stands to-day following that decision those men under the Railway Act could not go to the Railway Commission and make any complaint because the right to close is there. As to certain remedies which the men at the terminals have in regard to property loss, we are taking away no rights to appeal to the Railway Commission which those men have now.

Hon. Mr. LYNCH-STAUNTON: I desire to draw the attention of the committee to a clause which I propose to add to this Bill when we have finished its consideration. I should like the committee to have it in mind so they may think it over. This is my proposal; that at the end of the Bill we add this clause:—

Nothing in this Act shall be construed to confer any vested rights in the Trustees or to commit Parliament irrevocably to the scheme of management and operation of the National Railways; and Parliament shall be at liberty, without accusation of bad faith, to repeal, alter, or amend this Act as it may be proper in the public interest.

Now, it may be heroic to burn your own bridges, but it is neither heroic nor proper to burn the bridges of other people. This Parliament has not any mandate to hand over this two and a half billion system to anybody, to strip itself of the right to control this great railway. Parliament cannot pass the buck. The Government will be held responsible for whatever happens. If this plan, which is not coercive but merely a sermon, merely directing these people what to do, if this plan fails the Government will be denounced for having taken away from itself the right to intervene in the public interest.

I came to that conclusion after hearing the evidence of Mr. Fairweather. I realized then what this Canadian National Management is. It is no more nor less than a bureau; and we know what bureaucratic government is. The parrot cry of "Hands off the Canadian National" is a great fundamental principle to guide public ownership, that the intervention of politicians in public owned enterprises is not to be thought of, and that those enterprises will go on their way to prosperity if they are left to their own sweet will. We have had ten years of operation of the Canadian National Railways with the motto "Hands off public property." With what result? We feel now that to avoid national disaster we must intervene and deflect the management of this road from the course it has been following. What justification have we to believe that by reason of this homily contained in this Act these people will change their practices and their ways? It is not as if we were putting a bridle on them; we are only entreating them to be good. There is not one syllable in this Act that is coercive of the Canadian National management. I heard a member of this committee say yesterday that the Canadian National dare not do this, dare not do that, dare not do the other thing. Why? There is no criticism of the Canadian National and never has been. The Canadian National has too much patronage. Bees are attracted by honey pots but lightning is deflected from them. We know, we all acknowledge, and even the blind can see that this road has been badly, incompetently and improperly run for the past ten years. But have we ever heard any outcry about it? You remember when the Beauharnois matter came up what a tremendous outcry there was all over this country. But were there not equally scandalous things revealed concerning this road? Yet the air never stirred, the sky remained clear, nothing happened. There is, I say, no public opinion to which they may feel themselves amenable. Surely with the experience we have had of unfettered management we should not be willing to put ourselves in such a position that we may not be able to fetter them. This Parliament can be trusted, I hope, to keep good faith and never to injure a faithful servant. But although we point the way, we cannot be sure, unless we watch, that the traveller will follow it and keep to it. Perhaps he will gang his own gait, as he has been doing. That the railroad is not a business proposition but a pure bureaucracy was clearly indicated by Mr. Fairweather. He said the reforms will take five years. Like Russia, he has got a five-year plan. Why, the house will burn down in that time.

There is nothing in the management of a railroad that is so different from the management of any other business. We propose to put a man over the top of it to manage it, who perhaps never saw even the inside of a roundhouse. Think of it, the whole country is clamouring for reform and economy, and the head of the Canadian National's Bureau of Economics comes here and gravely tells us that it will take five years to work out reforms.

Hon. Mr. MURDOCK: He is a railroad man and he knows that.

Hon. Mr. LYNCH-STANTON: But if that is true, what is the use of passing any legislation?

Hon. Mr. BALLANTYNE: He did not say that, did he?

Hon. Mr. LYNCH-STANTON: He said it will take five years to work out their plans.

Hon. Mr. BALLANTYNE: But all the time they will be making economies.

Hon. Mr. LYNCH-STANTON: He did not say that.

Hon. Mr. BALLANTYNE: Oh, yes, he did.

Hon. Mr. LYNCH-STANTON: Well, I have the greatest reluctance to committing irrevocably the reconstruction of the building to the hands of the men who set the building on fire. Now, the way they managed that road in the past is no indication that they are true economists. I say it is the part of prudence and duty to reserve to ourselves the right to change this plan if we find that it will not work. I repeat that the Parliament of Canada and the Government of Canada can be trusted not to be guilty of any bad faith with anyone in connection with this. To give up our rights over this property, I say, would be an absolute breach of trust to the people of this country. I submit, honourable gentlemen, that we should not do this thing without very carefully considering our action. The responsibility devolves upon us, each one of us, just as much as it does upon the Government or on the House of Commons. If the men who are appointed to pull the road out of the terrible condition into which it has got are really concerned to serve the public interests, they will not be looking at the end of the Act to see if they have a job forever.

Hon. Mr. MURDOCK: May I ask if the rest of us are going to have the same opportunity of talking about where the blame should really be placed in this matter. I thought that when we adopted the preamble of the Bill the other day we passed up the very point that Senator Lynch-Staunton has been talking about, although I have not the slightest objection to going into a full discussion of who may be responsible for the present situation—and I do not mean the people that Senator Lynch-Staunton is blaming. If we are going to have a thorough thrashing out of this question—

Some Hon. SENATORS: We do not want it.

Hon. Mr. MURDOCK: I thought we had passed up that particular point the other day. A little later when we get in the House, let us have the thing thrashed out and find out where the blame properly belongs.

Hon. Mr. LYNCH-STANTON: I do not care where it belongs.

Hon. Mr. MURDOCK: I thoroughly agree with Senator Lynch-Staunton in some respects that there has been irresponsible squandering of the people's money. But I do not think that is the most serious blame that can be attached to the railroad situation in Canada, or elsewhere on the North American continent. I hope to state certain views, and on a more responsible authority than my word, that will place the blame where it properly belongs.

The CHAIRMAN: May I tell a story?

Some Hon. SENATORS: Hear, hear.

The CHAIRMAN: My father used to tell this story, and as he was a clergyman, it must be correct. In the neighbourhood in which he was preaching all the clergymen had gone on a rampage of preaching on the introduction of sin into the world. Going home from church one day he found a good preacher, who had a beautiful garden, chasing a pig around his garden and destroying the vegetables and flowers. So he stopped and said, "What are you doing?" The preacher replied, "I am trying to get the pig out of the garden." "Well," my father said, "by chasing him around you are destroying all the plants in the garden." To this the preacher said, "Well, he won't go out." And then,

when in answer to the question "Why don't you open the gate?" the preacher said "I want to find the place where he got in," my father's advice was "Get him out first and afterwards you can look for the place where he came in."

Now, you can apply that yourselves.

We are at clause 17, sub-clause 2. Our idea was to go through these clauses and find out whether they had to be amended or whether they were approved by the committee. Have you anything further to say on sub-clause 2?

Right Hon. Mr. MEIGHEN: All the amendment that is needed here is just leaving out the word "arbitral" at certain points. Delete "arbitral" on page 8, in lines 4, 6, 27, 31, 36 and 46.

The CHAIRMAN: Does that amendment carry?

Some Hon. SENATORS: Carried.

Right Hon. Mr. MEIGHEN: We may just as well do it in all the places where it is required: on page 9, lines 26 and 34, page 10, lines 5, 20 and 26, and on page 10, line 15, delete the words "the arbitral tribunal" and substitute the word "tribunals."

Hon. Mr. GRIESBACH: In other words it is deleted wherever it occurs?

Mr. O'CONNOR: Not wherever it occurs, because you need it a couple of times.

Hon. Mr. GRIESBACH: Why are you dropping that?

Right Hon. Mr. MEIGHEN: The word "tribunal" is defined. There is no change whatever, except as to the wording.

Hon. Mr. MURDOCK: Can a one-man arbitration be regarded as a tribunal?

Right Hon. Mr. MEIGHEN: It is not a one-man arbitration.

Hon. Mr. MURDOCK: One man has the full decision.

Right Hon. Mr. MEIGHEN: That is so of every arbitration.

The CHAIRMAN: Shall the motion carry? These amendments are approved, but not adopted.

Some Hon. SENATORS: Carried.

The CHAIRMAN: Now, is there anything further?

Right Hon. Mr. MEIGHEN: If any improvement can be made in clause 17, we would be glad to have it.

The CHAIRMAN: Is subclause 2 satisfactory as amended?

Hon. Mr. LYNCH-STANTON: The section we were speaking of yesterday comes in here, I suppose. Mr. O'Connor has drawn up one to carry out as far as possible the object I had in mind in my criticism of the clause. It is this:—

I move to add, page 8, line 33, of the redraft, the following subsection:—

5. Every determination, decision, direction and order of every tribunal shall be in consonance with the purpose and authorization declared and provided in and by the first subsection of section 16 of this Act, and no co-operative measure, plan or arrangement which imposes a burden upon any party to a dispute shall be directed unless such measure, plan or arrangement includes a reasonable compensatory advantage to that party.

Are you dehorning the Act there?

Hon. Mr. CALDER: You certainly are. That is exactly the question I raised yesterday when I tried to get some safeguard in there. You are emasculating the Bill.

Hon. Mr. LYNCH-STANTON: It was agreed yesterday that we should do that.

Hon. Mr. CALDER: No, it was not. By this proposed amendment you leave it in the discretion of the chairman of the tribunal as to whether or not in any of these arrangements made for co-operation there are sufficient compensatory results.

Hon. Mr. LYNCH-STANTON: No, no. Yesterday we took, for example, the north shore line, and we said that if that north shore line were closed up the C.P.R. might lose it altogether and have nowhere to go when the agreement came to an end. There should be some provision in the Act whereby that would be taken care of. This proposal does not give any more power, it simply says that when the power is exercised it must not be exercised in such a way as to hurt any other party.

Hon. Mr. CALDER: I am agreeable.

Hon. Mr. FORKE: Then why not say it in so many words.

Hon. Mr. LYNCH-STANTON: That is the way the counsel has framed it.

Hon. Mr. GRIESBACH: My view of this clause is that the first part of it is bad legislation, in that it merely calls upon the commissioner to refrain from doing what the Act already provides.

Some Hon. SENATORS: Hear, hear.

Hon. Mr. GRIESBACH: And I object to the second part for the reason that it visualizes decisions with respect to isolated cases. It occurs to me that as this matter progresses one has to look at the whole picture of the two systems rather than of isolated cases, and that as the Bill is put into force there will grow up compensatory advantages as between the companies by mutual understanding. To endeavour to provide that each case must carry its own compensatory advantage is not, in my judgment, sound or wise legislation. I would oppose the whole clause.

Right Hon. Mr. MEIGHEN: Honourable gentlemen, I think Senator Lynch-Staunton in proposing this clause is acting in good faith in view of what he understood to be the interpretation of the intention of the law as discussed yesterday; but I am a little afraid of the effect that is going to be brought about if this passes; at all events, I am afraid of it at the present time. Yesterday—and this is what Senator Calder had in mind—it was stated clearly to the committee that the arbitral tribunal had to be persuaded that there was a balance of advantage on the part of economy and remunerative operation in favour of the plan before the arbitral tribunal could direct that that plan be carried out. Clearly Senator Lynch-Staunton has in mind making that more certain by this amendment. But here is what I am afraid of, and I hope I can make it plain. As the Bill stands now clause 16 provides that the purpose there defined must be reached in order to give jurisdiction at all to the arbitral tribunal, and the purpose defined is:—

Effecting economies and providing for more remunerative operation. Then the two companies are directed.

To attempt forthwith to agree and continuously to endeavour to agree and are authorized to agree upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes.

When a dispute arises affecting that plan the arbitral tribunal in order that that dispute will be under its jurisdiction, must be convinced that there is a balance of advantage on the side of economy and remunerative operation before it can give a decision in favour of the plan. That is the way the law is now. Where will it be if this is passed? Let me read Senator Lynch-Staunton's amendment:—

Every determination, decision, direction and order of every tribunal shall be in consonance with the purpose and authorization declared and provided in and by the first subsection of section 16 of this Act,—

It is now. There cannot be a dispute within the jurisdiction of the tribunal to resolve unless it is a dispute as to the terms upon which a plan is to be adopted which effects economy and more remunerative operation. Consequently the first clause to my mind is surplusage, repetition. But add the next part and I think you will find a still more dangerous result:—

—and no co-operative measure, plan or arrangement which imposes a burden upon any party to a dispute shall be directed unless such measure, plan or arrangement includes a reasonably compensatory advantage to that party.

Now, in what is before the tribunal there may be several things, one may be perhaps a balance of disadvantage, another a balance of advantage, but the whole giving a balance of advantage. I fancy if this clause passes one thing that gave a balance of disadvantage could be upset, although all were included in the one decision.

But I am still more afraid of this point, that the effect of the clause would be to transfer the determination of whether there would be a balance of advantage to the plan away from the arbitral tribunal to a superior court; and certainly we do not want to pass such legislation. I hope Senator Lynch-Staunton will follow me. Supposing, for example, after it has lost out before the arbitral tribunal, the arbitral tribunal having decided there is a mutual advantage in the plan, and distributed the burden according to the benefit, one of the roads says: "We are injured by this, the arbitral tribunal is wrong in deciding that we are not. The arbitral tribunal says that this tends towards economy and more remunerative operation; we say no. We are going to the Supreme Court of Canada,—"

Hon. Mr. GRIESBACH: On a question of jurisdiction?

Right Hon. Mr. MEIGHEN: Yes. —"because we will show the Supreme Court we do not get the balance of advantage, and if we convince the Supreme Court of that they will have the right to upset the arbitral tribunal." So the effect is to transfer to the Supreme Court of Canada a decision in point of fact which this Bill intends shall be left to the arbitral tribunal. That is my main objection to the clause, but instead of asking the committee to vote it down, I prefer to make certain that my interpretation is right. I feel certain now that it is right.

Hon. Mr. LYNCH-STAUNTON: That is not my phraseology, but I thought anything drafted by the counsel for the committee would get through more easily than if drafted by myself. I do not agree with the construction the leader of the Government has put upon this, for the reason that it is a question of fact, and the Supreme Court cannot change anything on a question of fact. A question of law would go to them. But they would be faced right off with this contention: The tribunal came to this conclusion on the facts. That would be an unanswerable argument.

Right Hon. Mr. MEIGHEN: A decision is given and the Canadian Pacific says: Although we did not succeed in convincing the arbitral tribunal, we still contend that the plan is injurious to us on the whole. Will the C.P.R. by virtue of that contention be entitled to go to the Supreme Court or will it not?

Hon. Mr. LYNCH-STAUNTON: It will not.

Right Hon. Mr. MEIGHEN: It will not?

Hon. Mr. LYNCH-STAUNTON: No, because the answer they will get in the Supreme Court is this: You contended as a matter of fact that that would injuriously affect you; the arbitral tribunal found as a matter of fact that it

did not injuriously affect you. If the Arbitral tribunal found that it did injuriously affect them, and they refused to carry out the law, I have no doubt the contention would be entertained by the Supreme Court. But it is a question of fact whether or not they are injuriously affected. I think I could have avoided the right honourable gentleman's objection had I put it in the form I preferred, namely:—

The board shall not make any direction which will injuriously affect either of the companies without imposing conditions calculated to nullify such injury.

I confess, gentlemen, that I agree with Senator Meighen that his original draft could reasonably and properly be construed to accomplish the end that I have tried to accomplish in my suggestion. But it is arguable and I think the C.P.R. should not have to be driven to persuade the tribunal or any other body that that is what those general words mean. Mr. Meighen says that the object of the Bill is to bring about these economies without injuring one road more than the other, and without putting an improper burden on either road. That is his intention, and he says he has expressed it in the Bill. I confess that if I were sitting in judgment I would agree with him that he has accomplished his purpose; but when I read the Bill before I heard his argument I was not of such opinion.

You know, gentlemen, that many men have many minds, that many lawyers put absolutely diametrically opposite constructions on statutes. And I want the railway to feel that it is not a toss-up which way their contention may be decided. I think that to express that intention in plain words will not embarrass the companies in the enforcement of this Bill. All I want is that Senator Meighen's intention should be expressed so that no man can deny what that intention is. I do not think it is so expressed in the Bill now. I have no desire to go one inch farther than he has gone. I am not asking the committee to amend the intention of the Bill, but, to use a word that is commonly used now, to clarify it. I submit that to the consideration of the leader of the Government, and I put my contention on that ground solely, not that the provision is not there but that it is perhaps not clearly expressed.

Hon. Mr. McLENNAN: Read yours.

Hon. Mr. LYNCH-STAUTON: (Reading) "The Board shall not make any direction which will injuriously affect either of the companies without imposing conditions calculated to nullify such injury."

Hon. Mr. CALDER: We will sleep over that.

The CHAIRMAN: This proposed amendment has been submitted for consideration.

Hon. Mr. LYNCH-STAUTON: I will withdraw that and put the other one in.

Right Hon. Mr. MEIGHEN: I would rather have the one you put in first. I do not like the word "nullify." I think that if the amendment you proposed first is worthwhile, a very slight change would make it read all right.

Hon. Mr. CALDER: I am not quite clear on this question of jurisdiction. Section 16 says that the National Company and the Pacific Company, for the purposes of effecting economies and providing for more remunerative operation are to co-operate. Now, I presume that must apply to both companies, and that they can only co-operate under those conditions. Now, suppose they have a dispute which they cannot settle, and one of them takes the ground that under this clause the arrangement that is proposed by the other company will not lead to economy or more remunerative operation. That at once affects the question of the jurisdiction of the Board.

I am not quite clear myself but I will try to explain the thing as I see it. Suppose the two companies have a dispute with respect to a terminal, and

the Canadian Pacific says that what is proposed will cost them far more than it will the Canadian National and that they, the Canadian Pacific, will not be able to operate more remuneratively if the change is made. Now, suppose the Canadian National takes that dispute to the Board. The Canadian Pacific will at once question the jurisdiction of the Board because the proposed arrangement will not lead to economy or more remuneration.

Hon. Mr. LYNCH-STAUNTON: Of course, you do not mean to tell me that the Act gives authority that economies can be effected no matter where the chips fall. If the Board was reasonable and they made the Canadian Pacific abandon a line, for example, they would order that the line shall be maintained at the joint expense so that if the Canadian Pacific has to go back there it will not find a wilderness.

Hon. Mr. CALDER: The point I want cleared up is whether or not occasions might arise where the jurisdiction of the tribunal would be questioned by one party to the dispute on the ground that the proposed arrangement about which there is a dispute would not result in economy or more remunerative operation.

Right Hon. Mr. MEIGHEN: If one party convinced the tribunal that the proposed plan would not result in more remunerative operation or in economy, the tribunal would not have jurisdiction. But the tribunal itself must decide that matter, and I am anxious that the decision should rest with them.

Hon. Mr. LYNCH-STAUNTON: Yes. I certainly would not want to take it away from them.

Hon. Mr. GORDON: I am told that legal advice that costs nothing is worthless, but I am happy to believe that in this committee we are getting from lawyers some real advice that is worth money to us. Now, each of the railroads has had an industrial department and they have had officials whose business it was to induce industries to locate on the roads. Now, I would like to get legal advice on a question. Suppose a line is abandoned and there has been a plant located upon that line. Who would lose the investment in that plant?

Hon. Mr. CASGRAIN: Give us a concrete case.

Hon. Mr. GORDON: That is not necessary. The industrial departments of both railroads have been busy for years and have induced commercial concerns to make investments.

Hon. Mr. BALLANTYNE: The man who put up the money will lose it.

Right Hon. Mr. MEIGHEN: Probably it would be already lost, or the line would not be abandoned.

Hon. Mr. GORDON: No, that would not always be the case.

Hon. Mr. LYNCH-STAUNTON: Have you got a sawmill somewhere?

Hon. Mr. GORDON: I represent no single interest, but the taxpayers of Canada.

Hon. Mr. DANDURAND: In reading through the evidence given before the Royal Commission, I noticed that Mr. Lorce stated that a certain number of lines had been abandoned in the United States under an economy scheme, and that compensation had been provided for the concerns who were injured by the abandonment of the lines.

Right Hon. Mr. MEIGHEN: The question is not affected by this Bill. The people who would lose the money would be the same people who would lose it whether this Bill passes or not.

The CHAIRMAN: Now, we have for the time being laid aside this amendment proposed by Mr. Lynch-Staunton, to be considered by the leader of the Government and counsel. We are still on 17. We have a good many things to consider when it comes up again.

Hon. Mr. LYNCH-STAUNTON: There is nothing to be done with 17 to-day.

Right Hon. Mr. MEIGHEN: No. Go on with 18.

On section 18—Chairman and members of arbitral tribunal.

The CHAIRMAN: Section 18 reads:—

The Chief Commissioner of the Board of Railway Commissioners for Canada shall be the presiding officer of all tribunals. The National Company and the Pacific Company shall each appoint a representative, and the representative so appointed with the presiding officer shall constitute the tribunal for dealing with the dispute to be disposed of. At the request of either the National Company or the Pacific Company, or both, the president of the Exchequer Court of Canada may, upon it being made to appear to him that the dispute is one of sufficient importance, appoint two additional members for its disposition.

Hon. Mr. LEWIS: There is provision for representatives of the National Railways and the Pacific Company, as if there were no other interests but the economic interests of those two companies. Suppose a line is abandoned—say one of the lines north of Lake Superior—and the people on that line complain of the withdrawal of the service, what provision is there for them to be heard before the tribunal? I notice that there is provision for two additional members, and I would add this:—

Additional members may also be appointed to represent districts which may be injuriously affected by the abandonment of any line, service or facility.

We are all obsessed with the idea of economy—which is quite right—but we should not entirely ignore the purpose for which the railways were instituted.

Right Hon. Mr. MEIGHEN: The point you have in mind, Senator Lewis, is covered, I think very fully, by section 19, which reads as follows:—

If, in the opinion of the presiding officer of any tribunal, any application made to him raises matters of substantial concern to the public or a section of the public, he may direct that notice of the sittings of the Tribunal shall be given either by advertisements in one or more newspapers, or otherwise as he may consider expedient, and may permit representations to be made at said sittings by such person or bodies, including the Government of Canada or of any of the provinces of Canada, as in his opinion should be heard.

Then it is proposed to add the following, which is to be found on page 14 of the amendments:—

(2) whenever a dispute exists which in the opinion of the presiding officer specially affects any province of Canada or the public thereof the presiding officer shall notify the Attorney-General of such province of the application, of the subject matter of the dispute and of all sittings with relation to it.

That is to say, there is ample notice to the public, ample opportunity to be heard, and the chairman of the tribunal, who is the deciding officer, represents the public and nobody else. How can it be said, therefore, that the public is not properly represented? Furthermore, as the law stands to-day, as shown by the judgment read by Mr. Murdock, even though very loud cries were heard from the public, the Railway Commission would have no jurisdiction to prevent the abandonment of the line.

The CHAIRMAN: What Senator Lewis had in mind was that a member of the tribunal should be selected from that special locality.

Right Hon. Mr. MEIGHEN: I presume there would be several interests in the section, and you might have a separate one for each of them. In that event

you would have a parliament instead of a tribunal. What I want to impress on Senator Lewis is the fact that not only is the public represented, but that the public representative has the final decision.

Hon. Mr. CALDER: After all, the two main things in which the public would be interested are the terminals and the abandonment of lines. I am thinking of the way in which the average man on the street would look at this. Would it be as well to provide that in so far as the abandonment of line and the changing of terminals are concerned the commissioner shall advertise? No doubt he will use his discretion properly, but I am thinking of the way in which the public will regard this matter. The Bill says the commissioner may do so and so.

Right Hon. Mr. MEIGHEN: There might be an abandonment of half a mile. You have to leave it with him. The words in the Railway Act are "The Commissioners may," but they always do. It is inconceivable that where any substantial section of line was to be abandoned they would not notify the Attorney-General.

Hon. Mr. STANFIELD: Is there any provision made if the Commissioner of Railways should happen to be ill?

Right Hon. Mr. MEIGHEN: Oh, yes. That is covered.

Hon. Mr. CASGRAIN: I have been asked to inquire if there is any sanction to what he does—and if so what kind of sanction—when the president of the tribunal rules and the company does not obey?

Right Hon. Mr. MEIGHEN: The highest in the world. This will be subsection 2 of 22:—

Every Tribunal shall have, as respects all matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are vested in a superior court.

The CHAIRMAN: May I ask the senator from Halifax if the clause as read here as to the notification to the Attorney-General and the protection of the rights, say, of the Maritime Provinces, meet with his views?

Hon. Mr. DENNIS: I think the clause is entirely satisfactory in view of the statement made by the leader of the Government and the comment made by Senator Calder.

The CHAIRMAN: Is there any further discussion on section 18? Then we will take it up subsection by subsection.

On subsection (2)—Applications to Tribunal:—

(2) The powers of the tribunal may be invoked by either company by written application to the Chief Commissioner setting forth in a concise and summary way the subject matter of the dispute. The name of the representative of the company making the application shall be notified to the Chief Commissioner concurrently with the making of the application. A copy of the application shall forthwith be sent to the other company with a request for the appointment of its representative, and such company shall nominate its representative within ten days from the date of receipt of the copy of said application.

I see he is called the Chief Commissioner in this subsection.

Hon. Mr. GRIESBACH: By an amendment which you have in mind to offer you suggest that the Chief Commissioner will rule on the question of jurisdiction first.

Right Hon. Mr. MEIGHEN: Yes. He can do so by quashing before the tribunal is constituted. He is called the Chief Commissioner until the tribunal is constituted and acting as such; then he is the presiding officer.

Some Hon. SENATORS: Carried.

The CHAIRMAN: In reading these subsections I am omitting the word "arbitral".

On subsection 3—Procedure if one party fails to appoint representative:—

(3) In the event of failure of the other company to appoint a representative the tribunal may proceed to consider and determine the subject matter of the application, and the decision of the two members of the tribunal shall be binding upon both companies. The presiding officer may, however, in his discretion, appoint a person to represent the company so failing to appoint its representative.

The CHAIRMAN: Does subsection 3 meet with your approval?

Some Hon. SENATORS: Carried.

On subsection 4—Procedure if representative fails to Act:—

(4) In the event that a representative of either company is unable or unwilling, or neglects or refuses to act or to continue to act, a successor may be appointed by the company he represents or by the presiding officer, in the event of a failure so to appoint, or the tribunal may, by direction of the presiding officer, proceed to consider and determine the matter or thing in dispute, notwithstanding the inability, unwillingness, neglect, or refusal to act of such representative.

The CHAIRMAN: Does subsection (4) meet with your approval?

Some Hon. SENATORS: Carried.

On subsection 5—Tribunal may be reconvened.

(5) The Chief Commissioner may of his own motion or at the request of the National Company or the Pacific Company or both, reconvene any tribunal to settle or determine any dispute which relates to the conditions, interpretation or enforcement of any order made by that particular tribunal and such reconvened tribunal shall have power and jurisdiction to settle or determine in the premises.

Hon. Mr. GRUBBACH: Is there any provision for the combination of several causes of complaint for one tribunal, or is it necessary?

Right Hon. Mr. MEIGHEN: That is very important, but I think under the Act a pretty large collection of circumstances could be gathered together and made the subject of one dispute and determination. It would be much better, for there might be portions of those factors detrimental, but compensated for by other portions beneficial.

Hon. Mr. LYNCH-STAUNTON: He can appoint one tribunal which will take up each dispute as it arises.

Right Hon. Mr. MEIGHEN: But if the dispute is severed, if there is only a small matter in each dispute, then in connection with one of those there might be a disadvantage to a company, but if you could embrace several cognate matters in one dispute then the balance of advantage might be to that company, and therefore be within the jurisdiction. I think under the Bill that can be done and the company that is going to the tribunal can make the dispute somewhat embrasive in character.

Hon. Mr. LYNCH-STAUNTON: Several causes of action.

Right Hon. Mr. MEIGHEN: -Yes.

The CHAIRMAN: Is subsection (5) approved?

Some Hon. SENATORS: Carried.

On subsection (6)—Fees and expenses of Tribunal:—

(6) The National Company and the Pacific Company shall pay all reasonable fees and expenses of the members of the Tribunal appointed

by them or by the presiding officer in equal shares or in such proportions as shall be directed by the presiding officer. The fees and expenses of the hearing and of witnesses and experts appearing before the Tribunal shall be such as are allowed by the presiding officer, and shall be paid either by one company or by the two companies in such proportions as he shall direct.

Hon. Mr. SHARPE: Who is going to pay the Chairman?

Right Hon. Mr. MEIGHEN: I have not consulted the Chairman on the subject yet.

Hon. Mr. SHARPE: You are adding a whole lot more work to him. I think it would be advisable not to let this go through without having some understanding.

Hon. Mr. CALDER: Adopt Senator Murdock's motion and put it back into the Commission.

Hon. Mr. McRAE: Mr. Chairman, in that regard could we not change the clause to read, "Fees and expenses of the members of the Tribunal" and leave out the words "Appointed by them." Make the section apply to all the members of the Tribunal.

Right Hon. Mr. MEIGHEN: I think it would hardly be fair to have him the judge of his own pay. I speak now merely as a member of the Senate. On account of the additional duties cast upon the Chief Commissioner the matter of additional remuneration may have to be considered, but we do not need to consider it as part of this Bill.

Hon. Mr. COPP: Suppose a local district or a Provincial Government thought fit to call witnesses, who would pay those witnesses, the companies or the locality?

Hon. Mr. CASGRAIN: It has been called to my attention that the Tribunal could not direct payment of the fees of outside people.

Right Hon. Mr. MEIGHEN: The common law is that when an intervenant comes into an action he carries his own costs. There is no provision here to assess the costs of the intervenant against these companies.

Hon. Mr. CASGRAIN: It would be quite expensive to pay witnesses from British Columbia, for example. Suppose somebody out there is hurt, and he desires to bring witnesses to Ottawa to establish his case?

Hon. Mr. LYNCH-STANTON: Could it not be done the same way as we pay witnesses before this committee?

Right Hon. Mr. MEIGHEN: Should the presiding officer of the Tribunal be empowered to assess any costs of an intervenant, we will say the province of British Columbia? It is called here because of an arrangement the two companies are putting through and offers witnesses to support its case. Should the Tribunal be empowered to assess the costs of those witnesses against either of both the railways? Certainly it should not be directed to do it. But the question is: Should it be empowered to do it if it thought such a thing were equitable. I have some doubts. I think we will have to let the intervenant pay his own costs.

Hon. Mr. CASGRAIN: As it is drafted they would have to pay all the fees.

The CHAIRMAN: It has been suggested that the clause should read:—

Fees and expenses of the hearings and of witnesses and experts appearing on behalf of the parties before the Tribunal shall be such as are allowed by the presiding officer—

and so on.

Hon. Mr. CASGRAIN: Why not say "the companies".

Right Hon. Mr. MEIGHEN: The companies are the parties.

Hon. Mr. LYNCH-STANTON: Would it not be better to leave the companies to pay the expenses incurred by themselves?

Right Hon. Mr. MEIGHEN: Well, it might be unfair.

Hon. Mr. LYNCH-STANTON: Yes, that is right.

Right Hon. Mr. MEIGHEN: I move that after the word "appearing" in line 38 of clause 6 the following words be inserted: "on behalf of the parties to the dispute". The word "dispute" is defined in the Act.

Mr. FLINTOFF: I should say that once a person is permitted to intervene he becomes a party. The word "companies" would make it clearer, I think.

Right Hon. Mr. MEIGHEN: He would not be a party to the dispute that is before the tribunal.

Mr. FLINTOFF: If I may be permitted, may I say that if a person is allowed to intervene in an appeal before the Supreme Court—

Right Hon. Mr. MEIGHEN: He would be heard but he would not be like a third party in an action.

Mr. FLINTOFF: On an appeal I should say that you are a party once you are allowed to intervene.

Hon. Mr. LYNCH-STANTON: When the Attorney-General is allowed to intervene he gets his costs.

Right Hon. Mr. MEIGHEN: But they would not be intervening in that sense at all before the tribunal. If we put the words "to the dispute" there we would make it clear.

Hon. Mr. GRIESBACH: It seems to me that if the Chairman of the tribunal happened to take the view that Mr. Flintoff takes and awards costs to those other people, we would have to pass amending legislation to overcome that.

Right Hon. Mr. MEIGHEN: But the tribunal could not possibly take that view.

Hon. Mr. LYNCH-STANTON: Why not use the word "companies"?

Right Hon. Mr. MEIGHEN: There might be confusion.

Hon. Mr. COPP: Why not insert the word "two" before the word "parties," so that it would read "on behalf of the two parties to the dispute"?

Right Hon. Mr. MEIGHEN: Nobody appears on behalf of the two parties but on behalf of one.

Hon. Mr. GRIESBACH: "Dispute" is defined in the third section of the Bill.

The CHAIRMAN: Paragraph (b) of section 3 says:—

"dispute" as appearing in Part III of this Act means any failure of the National Company and the Pacific Company, as respectively defined by this Act, to agree concerning any matter upon which by Part II of this Act they are authorized to agree, and includes their failure to agree concerning any measure, plan or arrangement proposed or any matter of detail arising out of or ancillary to any measure, plan or arrangement settled upon or made, whether or not pursuant to an order of an arbitral tribunal. . . .

Hon. Mr. McRAE: Are we providing for the payment of the expenses of any witness that the tribunal may call?

Right Hon. Mr. MEIGHEN: Yes, or that the parties to the dispute may call, but not for others.

The CHAIRMAN: Clause (6), with the proposed amendment, reads as follows:—

The National Company and the Pacific Company shall pay all reasonable fees and expenses of the members of the tribunal appointed by them or by the presiding officer in equal shares or in such proportions as shall be directed by the presiding officer. The fees and expenses of the hearing and of witnesses and experts appearing on behalf of the parties to the dispute before the tribunal shall be such as are allowed by the presiding officer, and shall be paid either by one company or by the two companies in such proportions as he shall direct.

The clause, as amended, was adopted.

The CHAIRMAN: If it is agreeable to the committee, we will adjourn now until 11 o'clock next Wednesday morning, February 15. The reason for adjourning until Wednesday is obvious. We fixed Tuesday this week, but many members objected to having to come here Monday night in order to be on time for Tuesday morning. As Chairman, I express the hope that we will be able practically to clean up this Bill next Wednesday morning.

Some Hon. SENATORS: Hear, hear.

The committee adjourned until Wednesday, February 15, at 11 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 11

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND HARBOURS

The Rt. Honourable GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	L'Espérance
Barnard	Lynch-Staunton
Beaubien	McArthur
Béique	Marcotte
Béland	McDonald (<i>Shediac</i>)
Bourque	McLennan
Buchanan	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Dennis	Murphy
Donnelly	Paradis
Forke	Pope
Gillis	Rankin
Gordon	Raymond
Graham	Robertson
Green	Robinson
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Laird	Turgeon
Lacasse	Webster.
Lewis	

[Quorum 9]

THE SENATE,

WEDNESDAY, February 15, 1933.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill A, intituled: "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 11 a.m.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: Gentlemen when we adjourned last week we had concluded at section 18, so we start at section 19 this morning. It is proposed that a sub-clause be added to section 19. The section as it now stands reads:—

If, in the opinion of the presiding officer of any Tribunal, any application made to him raises matters of substantial concern to the public or a section of the public, he may direct that notice of the sittings of the Tribunal shall be given either by advertisement in one or more newspapers, or otherwise as he may consider expedient, and may permit representations to be made at said sittings by such person or bodies, including the Government of Canada or of any of the provinces of Canada, as in his opinion should be heard.

Hon. Mr. LYNCH-STAUNTON: Why should the presiding officer not have the discretion to notify any person or persons whom he thinks should be notified? To advertise in the Gazette is like putting the notice in the cellar.

The CHAIRMAN: Real newspapers are intended here.

Hon. Mr. LYNCH-STAUNTON: The Chairman would know who are interested.

The CHAIRMAN: Would he know?

Hon. Mr. LYNCH-STAUNTON: He should know.

Hon. Mr. COPP: The words "or otherwise" give him the discretion.

Right Hon. Mr. MEIGHEN: He would have his own choice, under that clause.

The CHAIRMAN: This Act will be an experiment. I imagine the framers of the measure want to leave no loopholes through which an injustice could be done to anyone. This clause allows full latitude to the Chairman to give publicity in any way he thinks best.

Hon. Mr. LYNCH-STAUNTON: Yes, on re-reading the clause, I think that is right. I withdraw my objection.

Hon. Mr. CASGRAIN: How many tribunals are there?

Right Hon. Mr. MEIGHEN: One.

Hon. Mr. CASGRAIN: Why put it in the plural then.

Right Hon. Mr. MEIGHEN: There will be only one at a time.

The CHAIRMAN: There may be another tribunal later, composed of different men.

Shall this be approved?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Now, on page 14 of the amendments, which is marked "K", you will find a proposed sub-clause (2) to 19:—

Whenever a dispute exists which in the opinion of the presiding officer specially affects any province of Canada or the public thereof the presiding officer shall notify the Attorney-General of such province of the application, of the subject matter of the dispute and of all sittings with relation to it.

Hon. Mr. STANFIELD: May I ask whether this goes far enough? A dispute might arise in regard to the abandonment of a line, for instance. There might be a large manufacturing concern or some other interest on that line.

Hon. Mr. GRIESBACH: That is covered by the first part of the clause.

The CHAIRMAN: Shall this sub-clause 2 be approved?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Now we come to section 20, in which several lines are underlined.

Right Hon. Mr. MEIGHEN: It is moved to add, after the word "persons" in line 8, the word "and;" and after the word "places" in line 9, the words "as those of."

The CHAIRMAN: It will then be:—

For the carrying out of the provisions of this Part, the Chief Commissioner may make rules or regulations governing all matters of procedure, including the care and custody of the proceedings before and the orders and decisions of Tribunals. Such rules or regulations shall provide so that all records and documents of such Tribunals and of all proceedings had or taken under this Act, shall be preserved and recorded by the same persons, and in the same places as those of and as if such records and documents were those of, and such proceedings had been had or taken by or before the Board of Railway Commissioners for Canada.

Shall subsection 1 of section 20 be approved?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Subsection 2 reads:—

Rules or regulations of the Board of Railway Commissioners in respect of the procedure for hearing applications, and the conduct of its sittings shall, mutatis mutandis, apply to proceedings before Tribunals, except in so far as they may be inconsistent with the provisions of this Part, or with rules or regulations expressly made for the purposes of this Part.

Hon. Mr. LYNCH-STAUNTON: What is the reason of this clause?

Mr. O'CONNOR: There are a number of desirable provisions in the Act.

Hon. Mr. LYNCH-STAUNTON: They have power to make all the rules that they want themselves. They can adopt the rules of the Railway Commission if they so desire.

Right Hon. Mr. MEIGHEN: Yes, but isn't it better to provide in the first place rules that have worked. They can modify them as they wish. Otherwise they would have to provide altogether new rules, and certain things might not be covered.

Hon. Mr. LYNCH-STAUNTON: My suggestion is that when they make their own rules, they can say where those rules do not cover, "we can follow the Board of Railway Commissioners." Do we not in the Senate follow the English rules where matters are not provided for in our own rules.

Right Hon. Mr. MEIGHEN: The Senate says, "We can make our own rules, but except in so far as we do the rules of the British Parliament shall apply."

The CHAIRMAN: Shall subsection 2 be approved?

Some Hon. SENATORS: Carried.

Section 20, as amended, was approved.

The CHAIRMAN: Shall section 21 be approved?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Section 22:—

An order or decision of any tribunal shall be binding upon the National Company and the Pacific Company, and shall have like force and effect as an order of the Board of Railway Commissioners for Canada made in a matter falling within the Board's jurisdiction, and may be enforced as if it were an order of said Board, and all the provisions of the Railway Act in respect of orders of the Board and their enforcement shall apply mutatis mutandis to an order or decision of the tribunal.

Shall this be approved?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Then there is a suggested sub-clause 2, page 15 of the amendments.

Right Hon. Mr. MEIGHEN: I desire to move an amendment to this amendment that after the words "due exercise" in the second line, there be inserted "and enforcement;" and after the word "jurisdiction" at the end of the line, there shall be added the words "and orders."

The CHAIRMAN: (Reading):—

Every tribunal shall have, as respects all matters necessary or proper for the due exercise and enforcement of its jurisdiction and orders, all such powers, rights and privileges as are vested in a superior court.

Hon. Mr. LYNCH-STANTON: What superior court are they going to refer to?

Right Hon. Mr. MEIGHEN: Any superior court.

Some Hon. SENATORS: Carried.

On section 23—Certain orders of tribunal require formal written consent of presiding officer.

Where the execution of an order, or the carrying out of a decision of the tribunal, involves the doing of any act which by any statute requires the assent or approval of the Board of Railway Commissioners, or where in the opinion of the presiding officer himself the public interests involved are of sufficient importance to warrant it, no order made by a tribunal shall be operative without the concurrence of the presiding officer and his formal written assent.

Right Hon. Mr. MEIGHEN: In line 37 delete the word "the" and substitute "but for the provisions of this Act the leave, sanction." Then in line 39 the word "himself" goes out.

This section will now read:—

Where the execution of an order, or the carrying out of a decision of the tribunal, involves the doing of any act which by any statute requires, but for the provisions of this Act the leave, sanction, assent or approval of the Board of Railway Commissioners, or where in the opinion of the presiding officer the public interests involved are of sufficient importance to warrant it, no order made by a tribunal shall be operative without the concurrence of the presiding officer and his formal written assent.

The CHAIRMAN: You will note the amendments. Shall they be approved?

Some Hon. SENATORS: Carried.

Hon. Mr. ROBINSON: A gentleman alongside me raises a grammatical question, that in the second line "the Tribunal" should be "a Tribunal".

Right Hon. Mr. MEIGHEN: It should be "a Tribunal".

The CHAIRMAN: It is moved by Senator Robinson that in line 36 after the word "of" and before the word "Tribunal" the word "the" be stricken out and "a" substituted.

Hon. Mr. LYNCH-STAUNTON: Can any order be operative without the concurrence of the presiding officer? Is not that provided for before?

Right Hon. Mr. MEIGHEN: This goes to the execution of the order, not the making.

The CHAIRMAN: Shall section 23 as amended be approved?

Some Hon. SENATORS: Carried.

On section 24—Tribunal orders prevail over orders of Railway Board.

In the event of any conflict between an order of the Board of Railway Commissioners and that of any Tribunal, the order or decision of the Tribunal shall prevail.

The CHAIRMAN: Shall section 24 be approved?

Some Hon. MEMBERS: Carried.

Hon. Mr. MURDOCK: Mr. Chairman, is there not some serious conflict involved here? We passed section 22 a little while ago. This entire part dealing with arbitral boards contemplates the chairman of the Board of Railway Commissioners shall be the chairman of all arbitral boards. In section 22 we have provided that

Every Tribunal shall have, as respects all matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are vested in a superior court.

Then in section 23 we say to the same man, who was chairman of the arbitral board but is now, for the purposes of section 23, chairman of the Board of Railway Commissioners, "You have got to O.K. over your signature as chairman of the Board of Railway Commissioners what you have decided as chairman of the arbitral board." It seems to me that that is going a long way to nullify the board that has been functioning under the law for about twenty-nine years, namely, the Board of Railway Commissioners, and I think it is giving entirely too much authority to one man in two positions under these two sections. Then we come to section 24, which to me makes the thing appear more farcical than ever, because we have already in section 22 said that nothing can be done except with the assent of the chairman of the arbitral board, who is the chairman of the Board of Railway Commissioners; then in section 23 we have said that the chairman of the Board of Railway Commissioners shall O.K. that which he did as chairman of the arbitral board. Now listen to section 24:—

In the event of any conflict between an order of the Board of Railway Commissioners and that of any Tribunal, the order or decision of the Tribunal shall prevail.

If that is not setting up Czarotic authority for one man in this Dominion of Canada, I have never seen anything approaching it. I think it is an absurdity.

Hon. Mr. LYNCH-STAUNTON: I cannot make head or tail of it myself.

Hon. Mr. MURDOCK: That is the way a layman figures it out in these three sections.

Right Hon. Mr. MEIGHEN: The senator may have done something of value here besides adding a word to our dictionary, a word that is certainly expressive. Let us read sections 22, 23 and 24 together. I think in that way we shall get their true effect. This is section 22:—

An order or decision of any Tribunal shall be binding upon the National Company and the Pacific Company, and shall have like force and effect as an order of the Board of Railway Commissioners for Canada

made in a matter falling within the Board's jurisdiction, and may be enforced as if it were an order of said Board, and all the provisions of the Railway Act in respect of orders of the Board and their enforcement shall apply *mutatis mutandis* to an order or decision of the Tribunal.

That appears to be quite unobjectionable, in fact quite necessary, for the reason that if we decide—we have not yet done so—that this compulsory Tribunal is to be created, then provision must be inserted to make its orders enforceable. This section says that the order of the Tribunal shall be enforceable as if it were an order of the Railway Commission under the Railway Act, and that the provisions enabling its enforcement there apply here.

Now section 23:—

Where the execution of an order,—

Honourable members should distinguish between the making of the order and its execution. Section 22 deals with the making of the order, but says it shall be enforceable as if it were an order of the Railway Commission.

Where the execution of an order, or the carrying out of a decision of a Tribunal, involves the doing of any act which by any statute requires but for the provisions of this act the leave, sanction, assent or approval of the Board of Railway Commissioners, or where in the opinion of the presiding officer the public interests involved are of sufficient importance to warrant it, no order made by a Tribunal shall be operative without the concurrence of the presiding officer and his formal written assent.

That is, where the carrying out of the order but for this Act would have had the approval of the Board of Railway Commissioners.

Hon. Mr. LYNCH-STAUNTON: Has he not got the enforcement of that order?

Right Hon. Mr. MEIGHEN: No. It is conceivable that a Tribunal of three might give a judgment of the two to which he did not assent at all. A majority determination of a Tribunal is effective.

Hon. Mr. LYNCH-STAUNTON: He can veto any order.

Right Hon. Mr. MEIGHEN: This is the veto clause. He can veto it when it is such an order as conflicts with some order made by the Board of Railway Commissioners. The enforcing of it may run counter to an order made by the Board of Railway Commissioners. In that event the presiding officer is given this power.

Hon. Mr. MURDOCK: Would it be a Tribunal order unless he had O.K.'d it as chairman of the Tribunal?

Right Hon. Mr. MEIGHEN: I cannot at the moment recall any clause saying the Tribunal can decide a matter even over the head of the chairman.

Hon. Mr. CASGRAIN: No, the president must concur.

Right Hon. Mr. MEIGHEN: You are thinking of the trustees; this is the Tribunal. Now we say the majority governs, but if in the enforcement of the order there is going to be a conflict with an order of the Railway Commission, then that enforcement cannot go save as provided in this clause.

The section says, "where in the opinion of the presiding officer himself the public interests involved are of sufficient importance to warrant it, no order made by a Tribunal shall be operative without the concurrence of the presiding officer and his formal written assent." That is the extent to which he has a veto; he has not an absolute veto.

Hon. Mr. GRIESBACH: That is necessary to avoid deadlocks.

Right Hon. Mr. MEIGHEN: Yes. And section 24 is necessary for this reason. It may be, for example, that the Board of Railway Commissioners would order the maintenance of a certain service, say a terminal or some minor service,

but in the carrying out of a general plan submitted in the interests of co-operation and economy this service might be merged in some other. Then it is necessary to have this clause effective in order that the decision of the tribunal that the plan should be carried through shall not be in conflict with and subsidiary or subservient to a previous order of the Board of Railway Commissioners.

Hon. Mr. CASGRAIN: Section 23 uses the words "the execution of an order, or the carrying out of a decision." What is the difference?

Right Hon. Mr. MEIGHEN: There might be a difference between a decision and an order. For instance, a decision may not have reached the order stage.

Hon. Mr. MURDOCK: May I ask Senator Meighen if he would be good enough to explain one other thing? We have added the following as sub-clause (2) to clause 22:—

Every Tribunal shall have, as respects all matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are vested in a superior court.

Let us imagine a case in which the Canadian Pacific, operating under separate charter and vested rights, gets what to it appears to be the worst of a decision from a tribunal and declines to put it into effect. Will you suggest how somebody may proceed to have that decision or order enforced contrary to the wish of the Canadian Pacific?

Right Hon. Mr. MEIGHEN: The decision would have the force and effect of an order of the Board of Railway Commissioners. Suppose the Canadian Pacific declined to act. Then an action could be taken in the Superior Court by way of mandamus or injunction, and there would be the additional rights of enforcement that there reside. I am sure Mr. Flintoft could explain graphically and vividly what would happen in such a case.

Hon. Mr. LYNCH-STANTON: If the Canadian National declined to obey an order, what would happen?

Right Hon. Mr. MEIGHEN: The same dire consequences.

Hon. Mr. CASGRAIN: The services of the sheriff would be available.

Right Hon. Mr. MEIGHEN: Yes, the Exchequer Court sheriff.

The CHAIRMAN: Shall we say that section 22 is now agreed to? Carried.

We will now pass on to section 25, which reads as follows:—

The determination of an Arbitral Tribunal shall be final as to all matters of fact and of law except a matter going to the jurisdiction of the Tribunal. No proceedings in certiorari shall lie, but in lieu thereof there shall be an appeal to the Supreme Court of Canada, by leave of a Judge of that Court, upon a question as to jurisdiction.

(2) Such appeal shall be asserted and shall proceed according to the ordinary rules and procedure of that Court, except that they may be varied in the particular case to fit its circumstances by direction of the Judge who gives leave to appeal.

Right Hon. Mr. MEIGHEN: I move that the whole of section 25 as it now stands be stricken out and the following substituted:—

The determination of a Tribunal may be that of a majority of its members and shall be final as to all matters of fact and of law except a matter going to the jurisdiction of the Tribunal or any other matter of law concerning which the presiding officer dissents in writing, giving reasons. When the presiding officer so dissents an appeal confined to the subject matter of the dissent shall lie as of course to the Supreme Court of Canada. No proceedings in certiorari, even as to jurisdiction, shall lie to any court, but in lieu thereof, although the presiding officer has not

dissented, an appeal shall lie to the Supreme Court of Canada by leave of a judge of that court upon a question as to the jurisdiction of the Tribunal.

(2) Appeals shall be asserted and shall proceed according to the ordinary rules and procedure of the Supreme Court of Canada, except that in the case of an appeal by leave such rules and procedure may be varied to fit the circumstances as the judge who gives leave to appeal may approve or direct.

(3) Save as provided by this section no order, decision or proceeding of a Tribunal shall be questioned or reviewed, restrained or removed by any process whatever in or to any court.

(4) No order of a Tribunal need show upon its face—

(a) that any proceeding or notice was had or given or

(b) any circumstance necessary to give it jurisdiction to make such order.

(5) The Attorney-General of Canada and the presiding officer of the Tribunal shall be entitled to be heard by counsel or otherwise upon the argument of any appeal asserted pursuant to this section.

The first part is the most important part, for that is what governs. It says:—

The determination of a Tribunal may be that of a majority of its members

I call the attention of Senator Casgrain to that.

. and shall be final as to all matters of fact and of law except a matter going to the jurisdiction of the Tribunal or any other matter of law concerning which the presiding officer dissents in writing, giving reasons.

That is, any matter going to the jurisdiction can be appealed. Any matter going to a question of law but not affecting jurisdiction can only be appealed if the presiding officer has dissented. The question of the jurisdiction of the tribunal can always be appealed to the Supreme Court. Questions as to determination of fact can never be appealed. Questions of law can be appealed, but only if the presiding officer has dissented. And the old certiorari method of challenging jurisdiction is abolished, in favour of an appeal on leave to the Supreme Court of Canada.

Hon. Mr. GRIESBACH: This raises the question as to who are parties. Mr. Flintoft seemed to disagree with you the other day as to who would be parties, and I should like to know who would be parties for the purpose of taking an appeal. For instance, if some people intervene would they be parties for the purpose of lodging an appeal on jurisdiction?

Right Hon. Mr. MEIGHEN: No, I think not.

Hon. Mr. GRIESBACH: I think Mr. Flintoft felt they would be.

Right Hon. Mr. MEIGHEN: Perhaps Mr. Flintoft would give us some observations on this clause.

Mr. FLINTOFT: A suggestion I would like to make to the committee is that the matter of an appeal on a question of law should be broadened, that there should be a general right to appeal on a question of law, if the committee sees fit, by leave of the Supreme Court. It seems to me that in matters of the importance of those that are committed to these tribunals an appeal on a question of law should be provided for generally rather than simply in the cases where the presiding officer dissents. It might be that the three members of the tribunal in a given case would all be lawyers. The other two lawyers might have views one way, or there might be—

Hon. Mr. LYNCH-STAUNTON: Two against the presiding officer.

Mr. FLINTOFT: Yes. There might be two against the presiding officer. Of course, in that case, I presume, we would have the right to appeal. If the presiding officer were one of the majority there would be no right of appeal, because he would not dissent in that case. It is very difficult to say in advance, but very important matters may come up as to which there may be a difference of opinion on questions of law, and I would suggest that there should be an appeal by leave of a judge of the Supreme Court on all questions of law as well as of jurisdiction.

Hon. Mr. CASGRAIN: You can have an appeal on law from the Railway Board, but before you can go to the Supreme Court you have to get the consent of the Board.

Mr. FLINTOFT: An appeal on a question of law or jurisdiction may be had on leave of the Board, or on a question of jurisdiction alone by leave of a judge of the Supreme Court. In this case I would think it proper that it should be by leave of the judge of the Supreme Court in all instances. I suggest that that is a proper safeguard.

Hon. Mr. LYNCH-STAUNTON: That is the practice of the Railway Board?

Mr. FLINTOFT: On questions of law it is by leave of the Board; on questions of jurisdiction it is by leave of the Supreme Court. I would suggest in this case that it be by leave of a justice of the Supreme Court.

Hon. Mr. BEIQUE: You suggest that the words "except a matter going to the jurisdiction of the tribunal" be deleted?

Mr. FLINTOFT: I think it would require a little more change than that, sir. I am merely suggesting the idea. I think it could be worked out as a matter of drafting without difficulty. It would leave their decisions as to matters of fact final, and would make their decisions on questions of law and jurisdiction subject to appeal.

The CHAIRMAN: This raises quite an important point, gentlemen, and I think it is worthy of consideration and discussion. Is Colonel Phinney in the room?

Col. PHINNEY: Yes, sir.

The CHAIRMAN: Will the committee hear Col. Phinney?

Some Hon. SENATORS: Yes.

Col. PHINNEY: I cannot add very much to what Mr. Flintoft has said.

The CHAIRMAN: You agree with him?

Col. PHINNEY: Entirely, yes. As a matter of fact, when I appeared before that was my submission on that point, so I do not think I need say any more than that I thoroughly agree with Mr. Flintoft on that submission.

Hon. Mr. MURDOCK: I should like to ask the lawyers on the committee for a little information. Part 3 of this Bill would not be in existence, talked about or thought about, or necessary at all, were it not for the possibility of the representatives of the two railroads disagreeing and finding it necessary to set up a tribunal to get a decision. And now we are seriously talking about the possibility of the two railroads agreeing together and the chairman of the tribunal dissenting. I cannot see it.

The CHAIRMAN: It is where the chairman might be opposed to both railways.

Hon. Mr. MURDOCK: Dissenting from the views of the two men whose views are exactly opposite. They bring in the chairman of the Board of Railway Commissioners to decide the question between them, and now we are talking about the possibility of them agreeing and the chairman dissenting.

Hon. Mr. LYNCH-STAUNTON: Don't you know that it was once said "A plague on both your houses." He might disagree with both.

Hon. Mr. MURDOCK: All right. Then, if the two companies agree, why, under the original intent of parts 1 and 2 of this Bill, should not their viewpoint prevail?

Right Hon. Mr. MEIGHEN: I see Senator Murdock's point now, I think. The view is this. If the two representatives named by the companies are of a certain view, that means that the companies are of that view, and that consequently there should be nothing at all to decide. I quite appreciate that. But a question of law might arise before the tribunal as to the admission of evidence; both sides might say "This evidence should be admitted," but the Chief Commissioner, who is a judge, would say "No, that is not evidence at all. I cannot hear it." There is a question of law where the two railways are agreed, but the chairman is not. The whole spirit of the Act is to make the chairman the man to decide in matters of law. It is also conceivable that the two railways might feel that something they have submitted, or that one of them has submitted, is within the purview of this Act, but the chairman might feel "no, it is beyond our jurisdiction." I know it is a pretty remote contingency, but it is covered, that is all.

Hon. Mr. LYNCH-STAUNTON: Do you predicate the execution of this Bill on the assumption that they will admit only legal evidence?

Right Hon. Mr. MEIGHEN: No. They can admit evidence as they wish. Therefore my first explanation would not be apposite. The Bill as it reads at present has this result, that on questions of fact the tribunal is final; there will be no appeal at all.

The CHAIRMAN: The original appeal is to the Governor in Council?

Right Hon. Mr. MEIGHEN: Yes, there is an appeal now on matters of fact from the Board of Railway Commissioners to the Governor in Council—that is to the Government—but as everybody knows, all the Government ever does is to refer it back, so it is a rather farcical appeal.

Now, there may be two other questions: (1), merely a question of law not going to jurisdiction, and (2) a question of law going to jurisdiction and challenging the jurisdiction of the court. If this Bill passes as we now have it, on the question of law there can be no appeal unless the Chief Commissioner, the chairman of the tribunal, has dissented; but on a question of law going to jurisdiction there could be appeal by leave of a Supreme Court judge. Now, Mr. Flintoft and Col. Phinney argue that there should be in both cases the absolute right of appeal on a question of law, whether it goes to jurisdiction or not, by leave of a Supreme Court judge. That is before the Committee, and I should like to hear the views of other members on the subject.

Hon. Mr. LYNCH-STAUNTON: Mr. Chairman, I think we ought to consider it most carefully. Not long ago the Chief Justice of England wrote a book protesting as strongly as he could against the ever-increasing practice of closing the courts to the public. The provincial legislatures and the federal parliament are relegating all kinds of questions to the decision of departmental officers without any appeal to the courts of the land. That practice in the opinion of the Chief Justice of England is a growing evil. We have no right on many matters to appeal: the Government has set up departmental courts from whose decision there is no appeal.

The CHAIRMAN: Is the Exchequer Court a departmental court?

Hon. Mr. LYNCH-STAUNTON: No. For instance, there are departmental courts on questions of customs—

Right Hon. Mr. MEIGHEN: Taxation.

Hon. Mr. LYNCH-STAUNTON: Yes. I do not for a moment say they are real courts in the eyes of a lawyer; but they are in effect courts from whose decision there is no appeal except at the whim of a minister. The appeal to him amounts to nothing, because he follows what his deputy tells him to do. I do not want

to make a spread eagle speech, but the right of access to the courts is a great thing. These are very, very important matters and I cannot see how any evil can arise by allowing the people to go into the courts. This man may have convictions, but nowhere is it recognized that one man's opinion is not appealable on all kinds of things. For this purpose we have a trained body of jurists called the Supreme Court of Canada. To cut a man off from going there without any real substantial excuse seems to me not wise and not British.

Hon. Mr. CALDER: Senator Meighen, I must confess that I do not quite understand the difference between the Bill and Mr. Flintoft's position. I should like you to state it again so that I may clearly distinguish the difference between these two propositions.

Right Hon. Mr. MEIGHEN: Supposing a decision is given by an arbitral board which is unsatisfactory to one of the parties, that party says: "The board have found certain things to be a fact; they have found, for example, that the loss in certain operations was so and so, and that finding of fact is wrong." That party claims that the arbitral tribunal were wrong in their finding of fact. Under the law as it is here, and indeed as it would be if Mr. Flintoft's recommendations were accepted, there is no appeal. It is the same as a jury finding, which in essence is never appealable on fact. The party says: No, we are not complaining of the finding of fact; but we contend he is wrong in law.

Hon. Mr. CALDER: Take the question of admissibility of evidence.

Right Hon. Mr. MEIGHEN: I have mentioned that before. Senator Lynch-Staunton challenged the aptness of my illustration, on the ground that we are not confining them here to the regular rules of evidence in hearing their case. But this situation might arise. The chairman of the arbitral tribunal may have ruled that something is a contract, and one of the parties may say that he is wrong in law, that there was in existence no such contract, that the finding is a mistake in law, and they want to appeal it. Now, in the law as we have it here they would have that right of appeal only if the Chief Commissioner, the chairman of the Tribunal, were on their side. If the other two decided it the other way and carried it, they would only have a case if he dissented. But there might be a third class of case, a question going to the jurisdiction of the Tribunal. Supposing the whole three, or any two of them had jurisdiction in a certain case, for example, they held economies would result, but it was a case coming within their powers under this Act, and the Canadian Pacific say: No, you had no jurisdiction there at all, we deny your jurisdiction utterly. In that case the chairman of the Commission under this law would not have to give his assent, and all they would have to do would be to go to a Supreme Court judge, state their case *prima facie*, and get his leave to appeal on that question of jurisdiction. Mr. Flintoft wants that latter procedure to apply in both those law cases—in a question of law that does not go to the jurisdiction, as well as a question of law that does. He wants the right to appeal by leave of a Supreme Court judge. It may seem technical and legal, but it is a matter of supreme importance. I quite admit it may be one of the most important questions of the Bill and one of the most important decisions we come to.

The CHAIRMAN: Who is opposed to Mr. Flintoft's and Col Phinney's view?

Hon. Mr. GRIESBACH: Is it quite clear that, having approved the whole Bill and the purpose of the Bill, that the proposal of Mr. Flintoft is inconsistent therewith?

Right Hon. Mr. MEIGHEN: I do not want to take a definite position on the request made by Col. Phinney, supplemented by Mr. Flintoft's presentation to-day, but this can be argued in support of the Bill as it is. If the Bill passes as it is there is going to be a measure of finality and an absence of technicality in the working out of the legislation.

Hon. Mr. GRIESBACH: That is the idea.

Right Hon. Mr. MEIGHEN: There will be far fewer appeals, there will be a certain expeditiousness and finality to proceedings that you will not get if you give what really amounts to an absolute right of appeal on the determination of questions of fact. Under the circumstances there may be an interminable delay in carrying out the Board's orders. On questions of law they can go to the Supreme Court and even to the Privy Council.

Hon. Mr. LYNCH-STAUTON: Only with leave.

Right Hon. Mr. MEIGHEN: But Senator Lynch-Staunton will admit that if there is any bona fide dispute in law at all, and the courts so feel, they will get their leave to appeal all right. That is the rule. They do not need to convince the judge they are right, they have only to convince him that they have a bona fide case. Consequently I fear there would be opportunities for delaying, if not defeating, the execution of the Boards orders. Evidently the Commission had in mind as summary a proceeding as could possibly be justified in the recommendations they make.

On the other hand it can be argued that on matters of law there should never be on the part of the tribunal giving the decision an absolute right to deny appeal, that if an appeal should be denied there should be somebody else called in, like a Supreme Court judge.

Hon. Mr. CASGRAIN: Suppose both railways agree on something that they think is good for themselves, if the Chief Commissioner does not think it is good for the public he dissents.

Right Hon. Mr. MEIGHEN: That might occur quite easily.

The CHAIRMAN: What will be our decision on section 25?

Right Hon. Mr. MEIGHEN: Mr. Chairman, I would suggest that section 25 stand. I should like to give further consideration to some points of view that we have heard to-day and I should especially like to hear from more members of the committee.

Hon. Mr. LYNCH-STAUTON: Referring to the question raised by Senator Casgrain, suppose the railways come to a unanimous decision on some matter. In such a case is the Chief Commissioner to be allowed to veto that unanimous decision?

Hon. Mr. GRIESBACH: How would the Chief Commissioner come into the case? One of the parties has to invite him to come in.

Hon. Mr. LYNCH-STAUTON: Suppose the railways have a dispute and they come before the tribunal. After thinking the matter out and discussing it, they may say, "We can agree and we do agree on so and so." But the chairman may say, "I do not agree with you," and veto their decision, the compromise that they made before the Board.

Hon. Mr. GRIESBACH: On the ground of public interest.

Hon. Mr. MURDOCK: Why shouldn't the Chief Commissioner stay out of the picture in that case?

Hon. Mr. CASGRAIN: Who would look after the public interest?

Right Hon. Mr. MEIGHEN: It is conceivable that in such a case the Chairman might say, "This plan shall be carried out but some special provision shall be made for the protection of public interest." He may take such a stand on account of some request made by a section of the public. Then the railways may say, "We object to that but we will agree if you leave that out." If the Chief Commissioner leaves in his order that part to which the railways have objected, they may argue before a Supreme Court judge "He is wrong in his law. He is wrong, for example, in his jurisdiction and he has no power to impose that condition upon us." They would have the right to ask a Supreme Court judge for leave to appeal.

Mr. FLINTOFF: Mr. Chairman, if I may be permitted to make a remark, as I read the section it appears to me that in such a case an appeal would lie as a matter of right without leave, as the Bill now stands. "When the presiding officer so dissents an appeal confined to the subject matter of the dissent shall lie as of course to the Supreme Court of Canada."

Right Hon. Mr. MEIGHEN: Yes, when the presiding officer so dissents.

Mr. FLINTOFF: That is the case that has been referred to by Senator Casgrain, as I understand it, when the presiding officer is in the minority.

Hon. Mr. LYNCH-STANTON: There cannot be an appeal, in any event, on a question of fact.

Right Hon. Mr. MEIGHEN: But there might be law involved.

Mr. FLINTOFF: This strikes one as a very strange provision, that by statute the decision of this presiding officer should be made final. Even he cannot give leave to appeal. He might not be sure of his law, yet he could not give you leave to go farther. You know that a judge will sometimes hesitate, but he will say, "I decide it this way, and the court of appeal will set me right if I am wrong."

Hon. Mr. LYNCH-STANTON: "This is my best guess."

Mr. FLINTOFF: Yes. It does seem strange that the statute should make it impossible to go to another court and ask for leave to appeal.

Hon. Mr. LYNCH-STANTON: Could not the right to appeal be restricted to substantial matters?

Mr. FLINTOFF: Our experience, in applying for leave to appeal from the Railway Commission, is that if there is not a substantial arguable point the leave will be denied.

Hon. Mr. LYNCH-STANTON: That is not always so.

Mr. FLINTOFF: No sir, it is not always so, because you cannot guarantee the perfection of human judgment in every case.

Right Hon. Mr. MEIGHEN: You would like the Chairman of the Commission to have power to give leave to appeal?

Mr. FLINTOFF: I would prefer a judge of the Supreme Court. I think it is better to bring in a third party who has not formed any opinion in regard to the matter.

Hon. Mr. LYNCH-STANTON: Under our Criminal Code you cannot appeal on technicality from a finding of the trial court or jury, but you can appeal on substantial grounds. Should there not be a similar limitation here?

Mr. FLINTOFF: Perhaps, sir, it is somewhat different when you apply to a judge of the Supreme Court than when you apply to a judge of a lower court. The Supreme Court judges do not want to crowd their calendar with appeals of no substance. I think the general practice is that the Supreme Court will not grant leave unless it is in a matter of substance. The Railway Act does provide for appeal by leave of the Board itself, but I was suggesting the other as perhaps the better method in this particular case.

The CHAIRMAN: Well, if there is no more discussion we will allow this to stand for consideration—till the next meeting of the committee?

Right Hon. Mr. MEIGHEN: Yes, I should like this clause to stand, and I suggest that we might go back. As everyone knows, we have not adopted any of the clauses of part 3. We have gone over them one by one. We might now go back to clause 17, but before doing so there is another clause which I am submitting to the committee for consideration. It carries out the suggestion made earlier in the hearing by Senator Lynch-Staunton:—

26. The Chief Commissioner may at any time after application for the erection of a Tribunal and upon hearing the parties concerned quash

any alleged dispute which in his opinion is wholly frivolous or vexatious or is not within the jurisdiction of a Tribunal. An appeal shall lie to the Supreme Court of Canada against every such quashal of a dispute.

The CHAIRMAN: Senator Lynch-Staunton will defend this?

Hon. Mr. LYNCH-STAUNTON: I move its adoption.

Hon. Mr. CASGRAIN: I second the motion.

The CHAIRMAN: In other words, the Board of Railway Commissioners say "You have not got any dispute—

Right Hon. Mr. MEIGHEN: The point is this. Honourable members will remember that the first proceeding to get a decision on a dispute is by way of application to the Chief Commissioner for a Tribunal. Before the Tribunal is selected that man is still Chief Commissioner of Railways, and is so described; once it is erected he becomes the presiding officer, and no longer can quash. But by this amendment he is given power to quash if, in his opinion, the alleged dispute is frivolous or vexatious or not within the jurisdiction of the Tribunal.

Hon. Mr. CALDER: The other members of the board have nothing to say?

Right Hon. Mr. MEIGHEN: No.

I would ask that this also stand, along with clause 25, because it is somewhat linked up with that clause. We have plenty to do in going back to clause 17 and, if possible, coming to a decision on part 3. If clause 17 is adopted, then as a matter of form we adopt all the other provisions to clause 25.

The CHAIRMAN: Clause 17 is the first section in part 3 of the Bill. As Mr. Meighen points out, we have tentatively approved of certain sections of 17, but we have not yet passed 17.

Right Hon. Mr. MEIGHEN: There are one or two amendments that I want to make to clause 17 before it is submitted for final approval. In subsection 2, line 44, page 7 of the Bill, add immediately after the words "dispose of" the following words, "and to make and enforce orders consequential upon such settlement and determination." It will read this way:—

A Tribunal shall have power and jurisdiction to settle and determine the dispute, between the National Company and the Pacific Company which it was erected to dispose of, and to make and enforce orders consequential upon such settlement and determination.

The CHAIRMAN: Shall that amendment be approved?

Some Hon. SENATORS: Carried.

Hon. Mr. MURDOCK: Let us deal with the first subsection of section 17. I should like to move that the first two words be struck out, and that the words "arbitration boards" be substituted. It would then read:—

Arbitration boards, constituted in manner hereinafter described, shall be erected as and when required for the purposes of this Part.

Right Hon. Mr. MEIGHEN: Would the honourable senator allow that to stand for a moment until we get 17 in the shape that I, as sponsor of the Bill, think it ought to be in. Then any amendments that he desires to move can be taken up.

I understand the first amendment I have proposed has been tentatively approved. The next one is this: in line 44—that is the second last line—strike out the words "it shall have power and jurisdiction also" and substitute simply the word "and." Then it will read in this way:—

and to determine the conditions of, and interpret and enforce all such measures—

and so forth. That is to say, there will be one sentence instead of two.

The CHAIRMAN: You have heard this amendment. Shall we approve of this amendment to subsection (2)? Has Senator Murdock an amendment to the amendment?

Right Hon. Mr. MEIGHEN: He is going to move an amendment of a general character if we tentatively approve of the section, we will take up part III.

The CHAIRMAN: Shall we approve of it tentatively?

Some Hon. SENATORS: Carried.

Hon. Mr. MURDOCK: Mr. Chairman, it seems to me that for the purposes of this part of the section we would ensure better results to the people of Canada if we would not fix, as we have in this part III, so much power and authority on one individual. I say that without the slightest reflection upon the experience or the ability of the individual that we are talking of. But I can very well visualize from some experience that while of course arbitration boards are a good thing, yet in many cases that might well come before this arbitral tribunal as it is now arranged it might be far preferable, for example, if the Canadian Pacific and the Canadian National were in disagreement on some important point whether operating economies should or could be brought about, to bring into the picture an absolutely disinterested but altogether capable railroad man, who would deal with the situation with a full knowledge of railroading from one end to the other. With all due respect to the lawyers of Canada, I think it may be said that some of them know but very little about the actual question of railroading and the advisability of doing this, that or the other thing in proposing economies. They, like the rest of us, are willing quite often on a matter of that kind to take the word of some one who is better acquainted with the actual circumstances and the possible results. But instead of dealing with a set policy on the appointment of arbitral boards, where only one man in Canada, and he a man who is chosen to be chairman of the Board of Railway Commissioners can act as the final arbitrator, it seems to me that we ought to give the experienced operation officers of the railroads the right to choose, maybe from the other side of the line—

An Hon. SENATOR: No.

Hon. Mr. MURDOCK: Somebody says no. But what we want here is to secure reasonable economies on a railroad basis, and we want fair dealing and equity for both railroads concerned—yes, and more important still, for the public which is so vitally concerned. It seems to me that we might follow the principles laid down in part III from start to finish, but make these principles govern the formation and operation of arbitration boards by the choice, if possible, of those directly concerned, the operating officers of the railroad; if not, of course, the choice to be made by a competent authority as outlined in part III. I think it would be preferable now to decide to change the first word in part I of section 17, "Tribunals" and substitute the words, "Arbitration Boards."

It seems to me we would then have something which could be more beneficial to the people of Canada, to the railroads themselves, and—may I say?—something in which the rank and file of the employees, who are going to furnish a lot of the economies here, will have more confidence. I hope you will seriously consider these suggestions. I have not asked anybody to second the motion to do this, but I will.

The CHAIRMAN: Move your motion.

Hon. Mr. LYNCH-STANTON: Mr. Chairman, Mr. Murdock's object would be better attained by his moving, if I may suggest it, an amendment that this Arbitral Tribunal shall be set up in default of the railroads agreeing upon a third man.

Hon. Mr. MURDOCK: If my proposal prevailed this is how the first part of section 17 would read:—

Arbitration Boards, constituted in manner hereinafter described, shall be erected as and when required for the purposes of this part.

Hon. Mr. LYNCH-STAUNTON: You change the whole Act. If you could put in a clause that these arbitration boards should only be set up where the two railroads have failed to agree upon a third man you would achieve your purpose.

Hon. Mr. BALLANTYNE: That is the way it is now.

Hon. Mr. MURDOCK: I am not agreeing with that. I am contending that the Arbitral Board should be set up whenever the two railroads fail to agree. I am of the opinion that in very many cases, in at least eight cases out of ten, they would be able to choose a man to come in and settle the point of difference.

Hon. Mr. CASGRAIN: They would agree on the man?

Hon. Mr. MURDOCK: Yes. I may be entirely wrong, but it is my guess that they would agree on a man. There should be provision for appointing such a man.

Hon. Mr. GRIESBACH: Your idea is to eliminate the Chairman of the Board of Railway Commissioners as permanent chairman; that is your whole proposition in a nutshell?

Hon. Mr. MURDOCK: Yes, for this reason—

Hon. Mr. GRIESBACH: I know the reason.

Hon. Mr. MURDOCK: In substance it has been decided that the Board of Railway Commissioners, which have been functioning for the last twenty-nine years, were not competent to deal with these matters. Therefore it seems to me logical and consistent that we should go along the same trail and decide that one member of that board should not have the final word in the dispute.

Hon. Mr. CASGRAIN: Do you really think they could agree on a third man?

Hon. Mr. MURDOCK: An arrangement would have to be made for the appointment of a third man.

Right Hon. Mr. MEIGHEN: Mr. Chairman, we can take a vote as readily on this amendment as on any other and determine again—perhaps we have already, I am not so sure—that we want a definite continuous court for these matters, or that we allow the railways to choose whoever they wish. We can decide that principle on this amendment as well as on any other. It follows of course if this amendment should be adopted and the Bill gone on with, the Bill will have to be revised from beginning to end in so far as the Tribunal sections are concerned.

Let us consider the matter, and in this consideration I do hope to carry Senator Murdock with me. Aside from this Bill entirely, there is nothing to hinder the railroads arbitrating anything they want to arbitrate; nothing at all. They have the same rights to settle disputes between themselves by arbitration as they ever had. I do not think they have adopted it very often, but it has been open to them all along. The senator's amendment, however, would have this effect, that is, if its principle is carried out throughout, that where they do not do that, and there is a dispute to be settled if economies are to be effected, we allow them to choose an arbitrator of their own, a joint arbitrator, and maybe two representatives, one for each company. Would the committee seriously consider giving executive authority to the board so constituted, in the selection of the chairman of which Parliament has not had any say on earth, that the orders of that board shall have the effect of the orders of a court of law, shall be enforceable like orders of a superior court, that the whole property of one company should be sequestered in the carrying out of that order? Even though the chairman may be perhaps a railway man, he will not necessarily be a lawyer, or a judge.

Hon. Mr. GRIESBACH: It might be anybody.

Right Hon. Mr. MEIGHEN: How are you ever going to keep your records? You have not any one common to all the Tribunals at all, you have a different one each time. There never could be any jurisprudence established, if we may so describe it, there never could be any consistency of decision. Surely Parliament would never for a moment dream of giving to a tribunal elected from somebody outside Parliament altogether the status of a court in advance, not knowing who the presiding officer was, not even knowing whether he knew anything of law, and yet treating his orders as having the force of law, to be enforceable as orders of a superior court. Now, that is really what the senator is suggesting, but I will pay him the compliment of saying that I know if he though his vote would carry it and if he was a responsible minister, he would not support it.

Hon. Mr. STANFIELD: Mr. Chairman, I am thankful to say that I have not a share of Canadian Pacific stock at present, nor has any member of my family. But I should like to hear what Mr. Flintoft might have to say on this section, if the committee is agreeable to hearing him.

I move that Mr. Flintoft be heard on this point.

Hon. Mr. FORKE: The Canadian Pacific's stand has been broadcast already.

The CHAIRMAN: Shall we hear Mr. Flintoft? We have heard Mr. Beatty at full length on this, but if Mr. Flintoft wants to add a few words we will be glad to hear him.

Hon. Mr. COPP: Carried.

Mr. FLINTOFT: Well, Mr. Chairman, I do not think there is very much I can usefully add to the statement Mr. Beatty made at one of the early sittings of the committee, but if I may I would reiterate what he said as to the position of the Canadian Pacific in regard to this provision. We regard it as an unfair provision to make in so far as the Canadian Pacific is concerned, in that it puts into the hands of one individual the decision as to matters of administration and executive policy, without any corresponding financial responsibility on the part of that individual. You will remember, sir, that Mr. Beatty suggested that if legislation of this sort were passed and the final decision on matters of the kind referred to should be taken from the responsible directors of the company, there should be some guarantee against the possible results of such action to the privately owned company. I noticed that in the discussion before the Royal Commission there was a suggestion that some means of conciliations should be provided for along the lines of the Industrial Disputes Act, relying on the force of public opinion to insure that effect should be given to decisions. That may not be necessary in this case. Our view is that the same results can be obtained by co-operation without the threat of compulsion that is contained in the Bill. We think it is contrary to the atmosphere of co-operation that there should be a club hanging on the back of the door ready for striking either one of the parties on the head as he goes out.

We think that the two parties to the negotiations will approach their troubles in a different spirit if they are under such a threat than if they are allowed to deal in a businesslike way. As Mr. Beatty said, the success or failure of this legislation, in our view, depends entirely on the type of men who are selected as trustees. We feel sure that we would have no difficulty in carrying out measures of co-operation with the Canadian National, with the type of men provided for in this Bill.

I may say that I think there has been a slight misconception in regard to the efforts towards co-operation that have been taken up to the present time. As was outlined to you a short time ago, the two companies selected three members of each executive as a joint executive committee to outline measures of co-operation. That committee took the matter into consideration and decided on the appointment of a joint co-operation committee to work out

the plans and details of the policy that they decide upon. They discussed questions of train service, ticket offices, express and a number of other cognate matters, and this joint committee that was appointed to go into the matter from the practical side immediately got to work. I might say that the executive committee laid down what you might call a constitution for the joint committee, which was very carefully thought out, and the joint committee started to work. Now, apparently the idea has spread abroad that nothing had been done. Well, as a matter of fact a very great deal has been done, a very great deal of work has been expended on these matters up to date. This joint committee decided on the best plan in its judgment to get results, which was to go into individual cases—for example, matters of joint terminals. They decided to go into individual cases, selecting both in Eastern and Western Canada the cases which *prima facie* in their judgment offered the best opportunities for economies. Of course, you cannot sit down in an office in Montreal and decide off the bat that you will join up terminals in Calgary, let us say. You probably would run in the mire very soon if that was the way you approached a problem of this sort. The only practical method to pursue in the hope of getting reasonable results is to investigate the situation on the ground and in the various offices responsible for the operation of the terminal, or whatever the thing may be. I referred to Calgary only by way of example, for I am not sure that Calgary was one of the places where a joint terminal was considered.

Practical committees have been appointed and sent out to go over the ground in respect of each of the particular economies that it was thought offered a reasonable prospect of early results. These practical groups have been conducting very careful investigations at different points throughout the two systems, and I understand their reports are coming in now and that action will probably be taken by the joint co-operation committee very shortly. Again, the matter of passenger train services required a different type of investigation, because it brought in the passenger officers and traffic men as well as the operating men. Then the telegraph service is all being investigated.

I do not think that this committee or the Government, or Parliament, would wish decisions on matters of this sort to be taken without the foundation being very carefully laid. Those are the things that are being gone into now. Mr. Fairweather, in speaking to the committee last week, said that the entire benefit might not be felt for four or five years. That, I take it, did not mean that we would not get any results, but that they would be cumulative, and that to reach the full benefits of the final fruition would take a period of probably five years.

Of course, we have been working along these lines since before this Bill was presented, or even before the Duff report was presented, but at present we are working more intensively and perhaps with more definite organization. We feel that greater results will be obtained, to the benefit of both the companies and the public, by allowing the spirit of friendly co-operation to continue rather than by attempting to reinforce—I think it would be a hindrance—by attempting to reinforce it by the use of a club. These men are sitting down in a business way, both actuated by the same idea, and I may say that they have been co-operating in the friendliest spirit under the resolution that was passed in the Senate before the adjournment.

For these reasons, sir, I would again urge that the objections that were voiced by Mr. Beatty be given effect to, and that part 3 be not passed. I may say that the Bill as it stands—as was suggested in previous discussion—is so broad that it affects not only land transportation but the ocean services, and all the interests of whatever nature, of the Canadian Pacific Railway Company. That is a matter in regard to which I should like to have an opportunity of saying a word with reference to the definition of “Canadian Pacific Railway.” Part 3, in our view, will be a hindrance to the attainment of the object that Parliament has before it. We think that parts 1 and 2, in the shape in which

you are putting them, will result very beneficially, because the two companies will be told definitely by Parliament that this co-operation must continue. Parliament meets again in a year, and if you find that substantial results are not being obtained you could take action along the lines of part 3.

Possibly there is one feature that has not been drawn to the attention of the committee. Many of the measures that are going to be taken will necessarily be more or less tentative in character. It might be thought, for instance, that an economy could be effected by a certain measure. That measure would be put into effect. At the end of a year the results might be very disappointing, and it might become necessary to revise the decision arrived at. But our view is that the purpose will be best served by allowing the compulsory feature of the Bill to stand and simply adopting parts 1 and 2.

Hon. Mr. CASGRAIN: Won't it be quicker if you have that club? It is going to take five years, you say, to get the full benefit. With the club it might take only one year.

Mr. FLINTOFT: No, sir. I would say that it would not hasten it at all. I do not think that threat is going to hasten decisions at all; I think it will make the companies more chary of getting into negotiations on various matters that they might enter into if they felt it was a pure matter of co-operation.

Hon. Mr. FORKE: It is not a threat. If the companies are getting along so well there will not be very much need of the tribunal. It is only if they fail that it comes into action. It is providing a way out.

Mr. FLINTOFT: I was thinking, perhaps, of the psychological effect, if I may say so. It may not be an actual threat, but my point is this. If you have an opportunity of canvassing and exploring various matters, without the feeling that if you cannot agree an outside person who is not familiar with the situation will be brought in to decide the question, you will not be so chary about going into things that may offer chances of economy, and you will sit down across the table and discuss things in a business way with the idea of getting results.

Hon. Mr. ROBINSON: As I understand it, the legislation is designed to protect the Canadian Pacific Railway just as much as the Canadian National Railway.

Mr. FLINTOFT: Yes.

Hon. Mr. ROBINSON: I was going to ask you whether, if we had had some such legislation as this in force for the last five years, it would not have saved the Canadian Pacific Railway a good many million dollars?

Hon. Mr. GRIESBACH: Hear, hear.

Hon. Mr. ROBINSON: May I ask Mr. Flintoft this question: If we had had in the last five years the provisions of this Bill in force, would it not have been beneficial not only to the Canadian National Railways but to the Canadian Pacific Railway to the extent of millions of dollars.

Mr. FLINTOFT: I can only answer that in this way, sir. I think it is pretty hard to say under present conditions what would have happened in the past. My own feeling is that so far as the compulsory feature is concerned it would not in the past have helped the situation to any material degree. Unquestionably there is a different atmosphere to-day from that which prevailed five years ago, and I think that the two companies are both very strongly of the view that everything possible will be done to effect economies.

Hon. Mr. CASGRAIN: I understand that both companies would sooner the Government would not butt in at all.

Mr. FLINTOFT: Of course—

Hon. Mr. CALDER: Senator Meighen, what is the position in a case of this kind: The Canadian National Railways wishes the Canadian Pacific, by means of co-operation in reference, we will say, to train service between Montreal and Ottawa, to reduce that service, and the C.P.R. simply say: No, we don't want

to consider it at all. Has the C.P.R. the right under this Bill to make that the subject of an appeal to the Arbitral Board.

Right Hon. Mr. MEIGHEN: Surely.

Hon. Mr. CALDER: In a sense there is no dispute; one side says, We won't consider it.

Hon. Mr. LYNCH-STAUNTON: That is a dispute.

Hon. Mr. CALDER: It is not a dispute as to terms, conditions or anything else.

The CHAIRMAN: It is a disagreement.

Hon. Mr. CALDER: They do not even disagree. They do not sit in.

The CHAIRMAN: The disagreement is that they will not sit in.

Right Hon. Mr. MEIGHEN: The C.N.R., we will say, believe that economies can be effected beneficial to both roads by a reduction of train service, and they say to the C.P.R.: Sit down with us. The C.P.R. say: No, we won't sit down, we won't even talk to you. Then all the C.N.R. has to do is to prepare a plan, which they represent in their judgment is fair between the two roads. I presume they would submit that to the C.P.R. The C.P.R. reject it. Well, that is the dispute; they fail to agree. Then this plan, arrangement or whatever the other word is, they take immediately to the Chief Commissioner and ask for a tribunal upon it.

Hon. Mr. CALDER: I wonder if the word "dispute" is defined.

Right Hon. Mr. MEIGHEN: Yes, dispute is defined to cover that.

Hon. Mr. MURDOCK: After the discussion we have just had, Mr. Chairman, it would be rather unfortunate if we did not right here place on the record the pronouncement by President Beatty. With the leave of the committee I will quote his remarks. Speaking in the city of Winnipeg on February 8, he said:

I have stated on more than one occasion the objections of the Canadian Pacific to the Commission's plan. We are prepared to agree to all proper measures of co-operation, but we cannot consent to our property being administered for us, but at our expense, by others. We cannot agree to turning over to an arbitrary body the conduct of our enterprise and the shaping of our policies, when, in the nature of things, the consequences must be borne by the shareholders. The views of those charged with the responsibility of protecting the enormous investment in the Canadian Pacific would not, in these circumstances, prevail. This is not regulation; it is the assumption of complete powers of administration without financial responsibility.

Later on in his address he added these words:—

We have an instinctive distrust of dictatorships. We are not inclined to yield the unfettered control of any vital service to an individual or to a special group.

The CHAIRMAN: Gentlemen, do you think we have discussed this point long enough to have arrived at a decision?

Some Hon. SENATORS: Yes.

The CHAIRMAN: It is five minutes to one. It has been moved that sub-clause (1) of clause 17 be adopted:—

Tribunals, constituted in manner hereinafter described, shall be erected as and when required for the purposes of this part.

It is moved in amendment by Senator Murdock—

An. Hon. SENATOR: Has it been seconded?

The CHAIRMAN: I do not know. I am giving him the benefit of the doubt.

It is moved by Senator Murdock that the word "Tribunals" be removed from this section and the words "Arbitration Board" be substituted therefore.

I presume that means an arbitration board elected in the usual way.

Hon. Mr. GORDON: Before you take the vote, Mr. Chairman, may I ask if there is anything within the four corners of part III, providing it is adopted, to prevent the two railway companies from first trying to select one arbitrator?

Right Hon. Mr. MEIGHEN: No.

Hon. Mr. GORDON: They can do that?

Right Hon. Mr. MEIGHEN: Yes.

The CHAIRMAN: I want this clearly understood by the members.

It has been moved that subsection (1) of section 17 be adopted.

It has been moved in amendment by Senator Murdock that "Arbitration Board" be substituted for "Tribunals." The question will be on the amendment.

The amendment of Honourable Mr. Murdock was negatived: Contents, 3; Non-contents, 14.

The CHAIRMAN: Is it your pleasure, gentlemen, that the main motion be adopted?

Hon. Mr. COPP: Mr. Chairman, before it is carried I should like to point out the difficulty I was under in arriving at my conclusion in regard to it. I have made up my mind to vote for the Tribunals, but I have felt considerable difficulty in deciding whether we should leave this all to one man irrespective of how good a man he may be, however well versed he may be in law or in railway operations; in any case I hesitate to put this power in the hands of one man. In this section it is provided:—

At the request of either the National Company or the Pacific Company, or both, the President of the Exchequer Court of Canada may, upon it being made to appear to him that the dispute is one of sufficient importance, appoint two additional members for its disposition.

May I ask whether a decision of the majority of that board would carry?

Right Hon. Mr. MEIGHEN: The majority carries.

Hon. Mr. COPP: That disposes of a very great deal of difficulty that I had in coming to a decision.

Right Hon. Mr. MEIGHEN: To be accurate, a majority of the board carries, whether a five or a three member board, subject to the clause that was discussed here some time ago. I think it is clause 23, which provides that if that order or its execution would come in conflict with some previous decision of the Railway Board, then the order cannot go with the approval of the head. Subject to that a majority carries.

Hon. Mr. COPP: Either company can have a board of five instead of three on any hearing?

Right Hon. Mr. MEIGHEN: Yes.

The CHAIRMAN: Gentlemen, you have heard the motion. It has been moved that subsection (1) of section 17 be adopted. What is your pleasure.

Some Hon. SENATORS: Carried.

The CHAIRMAN: Those opposed?

An Hon. SENATOR: No.

The CHAIRMAN: I think the subsection is carried.

Another motion has been placed before us that the amendments to section 25 that have been adopted tentatively be permanently adopted.

Right Hon. Mr. MEIGHEN: Section 25 is what we have dealt with. If the committee has no objection, I would make this motion:—

That the remaining clauses 17, 18, 19, 20, 21, 22, 23 and 24 as tentatively approved be now adopted.

Some Hon. SENATORS: Carried.

The CHAIRMAN: That is what I had in my mind, because section 25 is held for further consideration. You have heard the motion made by Senator Meighen, that the amendments tentatively made to Part III be now made permanent, up to section 25.

The motion was agreed to.

Hon. Mr. BALLANTYNE: I think Senator McRae objected to the matter of the trustees preparing the panel—

Right Hon. Mr. MEIGHEN: We shall be coming back to that a little later.

The CHAIRMAN: I think it is safe to say that we will in a large measure go over the Bill again when we meet, to see that all these suggestions are dealt with.

The committee adjourned to meet again after the House rises.

The committee resumed at 3.40 p.m.

The CHAIRMAN: Gentlemen, we will endeavour to conclude with section 25 which we were discussing when we adjourned.

Right Hon. Mr. MEIGHEN: This clause, which was held over, is the one that deals with appeals. For my part I am prepared to accede to the request made by Mr. Flintoft and Col. Phinney, all other honourable members of course voting just as they feel best. The amendment that is necessary to meet the request of Mr. Flintoft and Col. Phinney, and which I will move and support, is as follows:—

That in section 25 all the words after the word "fact" in line 3, down to the words "Supreme Court of Canada" in line 8, be deleted; that the words after the word "thereof" in line 10 and down to the words "an appeal" in line 11 be deleted; and that after the word "Tribunal" at the end of the first clause of this section the following words be added: "and by the same leave an appeal shall lie to the same court from any determination of a tribunal as to a matter of law."

I may say that if it is the committee's pleasure to adopt this amendment, Parliament will be free a year from now to restore the clause to the way it is at the present time if it should develop that the amendment is utilized for purposes of delay.

Hon. Mr. GRIESBACH: Similarly a year hence Parliament will be free to introduce your amendment if they find there has been any abuse under the present clause.

Right Hon. Mr. MEIGHEN: Yes, it could be done either way, but I am suggesting the first way.

The CHAIRMAN: The first clause of section 25, if amended as proposed, would read as follows:—

The determination of a Tribunal may be that of a majority of its members and shall be final as to all matters of fact. No proceedings in certiorari, even as to jurisdiction, shall lie to any court, but in lieu thereof an appeal shall lie to the Supreme Court of Canada by leave of a judge of that court upon a question as to the jurisdiction of the Tribunal, and by the same leave an appeal shall lie to the same court from any determination of a Tribunal as to a matter of law.

The amendment was agreed to.

Section 25, as amended, was agreed to.

The CHAIRMAN: The following has been proposed as section 26:—

The Chief Commissioner may, at any time after application for the erection of a Tribunal and upon hearing the parties concerned, quash any alleged dispute which in his opinion is wholly frivolous or vexatious, or is not within the jurisdiction of a Tribunal. An appeal shall lie to the Supreme Court of Canada against any such quashal of a dispute.

Section 26 was agreed to.

Hon. Mr. LYNCH-STANTON: I want to move a clause, Mr. Chairman, to the effect that Part II of this Act shall come into force only on the promulgation of an Order in Council.

Hon. Mr. CALDER: I second that.

Hon. Mr. LYNCH-STANTON: I think we are all alive to the objections to Part III. We have heard it expressed this morning by Senator Murdock, and we have heard Mr. Beatty's statement. We all know that there is no desire on the part of Parliament to use coercion unless it is absolutely necessary. We all know that the only object in view here is to promote wise economy, and that there is no intention or desire on the part of Parliament to interfere with either railroad other than with a view to that end. We have had statements made by counsel for the Canadian Pacific and by the two representatives of the railroads that they are making an earnest endeavour to bring about necessary economies, economies that must be brought about if these railways are to survive. Now, because the Canadian Pacific regards this Part III as a substantial interference with its rights, because it regards it as something which should not be put into force unless absolutely necessary, I think that we ought to give the two railways a chance to see what they can do in the way of expediting the economies which they profess they are endeavouring to effect. If we put a clause in this Act suspending Part III, the Government can put that part into effect at any time it may be thought necessary. I therefore move that a clause be added at the end of the Bill:—

Provided that part 3 of this Bill shall only come into force on declaration of the Governor in Council.

Hon. Mr. L'ESPÉRANCE: I second the motion.

Hon. Mr. CALDER: Mr. Chairman, I must say that this feature of the Bill has given me more concern than any other part of it. I am not going to labour the situation, because it has been gone over time and time again, but I must say frankly that I am strongly inclined to the view expressed by Mr. Flintoft this morning. Briefly, it is this. In the first place, there is no doubt at all that general conditions in both railway systems are such that both railways are compelled to act along the line of parts 1 and 2 of the Bill. In other words, conditions are such that they must co-operate to the fullest possible extent.

Then there is the second thought, and it worries me very considerably. It is this. As Mr. Flintoft said, part 3 of the Bill is a club that is to be put into the hand of either railway company, which can say to the other, "Now, if you don't agree with me we will go to a court and force you to agree." In other words, by putting part 3 into actual effect at once you create that club; and more than that, you are liable to create an atmosphere that will prevent the very thing we want—

Some Hon. SENATORS: Hear, hear.

Hon. Mr. CALDER: —and that is co-operation. Briefly, that is my view, and I think, when you take into consideration the fact as I have taken it, that

these two companies must of necessity co-operate to the very fullest possible extent in order to save the situation, you will agree with me.

For these reasons I think we might very well put in a clause to the effect that we approve of the principle of part 3 of the Bill, but that it will not be brought into force unless there is occasion for it. We say to both companies "Unless you do thus and so the Government at any moment may require you to do thus and so."

The objection to that is—and the chairman gave voice to it—that the Government should not be put into a position where it will be required to bring it into force. Well, there is really nothing in that at all. The Government has a very large interest in this situation—a two billion dollar interest—so why should it not act if necessity arises. So far as I can see there is nothing in the argument that we are placing the Government in a false position, or in a position in which it should not be placed, by requiring it of its own motion to bring this into effect. So far as I am concerned, I must say very frankly that I shall second and support the motion.

Hon. Mr. GILLIS: I should like to ask in what respect the adoption of part 3 of this Bill would prevent the railways coming together and carrying on the work of amalgamation and putting into effect schemes that would lighten the taxes of the people of this country. How does the adoption of part 3 prevent the railroads getting together?

Hon. Mr. LYNCH-STAUNTON: It won't.

Hon. Mr. CALDER: It won't at all.

Hon. Mr. GILLIS: Then, why not have it as part of the Bill?

Hon. Mr. CALDER: For this reason, as I tried to make clear: Part 3 directs co-operation, but by part 3 we say to them, "Now, if during the process of co-operation you cannot agree on something, then we will force you to go to a court to settle it." I say that is a club.

Hon. Mr. GILLIS: It is not a court, it is an arbitration.

Hon. Mr. GRIESBACH: You said a moment ago it was two clubs, and that is much more accurate.

Hon. Mr. CALDER: I don't remember saying it.

Hon. Mr. GRIESBACH: You did. If you did not, I will say it anyhow.

Hon. Mr. CALDER: The real point is this, that by the creation of that club, and making it law, you put the arbitrators in a different frame of mind from that in which they would be if part 3 were not brought into effect just now. Here are the two parties: one approaches the other, and they try to co-operate. Well, if behind that process of co-operation there is the known fact that if the other fellow does not agree you can take him to court—

Hon. Mr. BALLANTYNE: What is to prevent the other fellow saying "If you do not agree I will appeal to the Governor in Council?"

Hon. Mr. LYNCH-STAUNTON: Nothing.

Right Hon. Mr. MEIGHEN: To apply the clause.

Hon. Mr. BALLANTYNE: Certainly. The Bill provides for this arbitral tribunal. You want to substitute for that something whereby, if the roads do not agree, either one of them can appeal to the Governor in Council to force them.

Hon. Mr. CALDER: No, no.

Hon. Mr. FORKE: Senator Ballantyne has brought up what is in my mind. What process is going to take place to get the Order in Council passed? Who is going to make the complaint?

Hon. Mr. CALDER: The Government, through its Minister of Railways, will at all times know the extent to which they are co-operating, and will watch the

effect of this co-operative action. Suppose that six months run along and nothing is accomplished, then the Government will say "It is about time to bring part 3 into effect."

Hon. Mr. BALLANTYNE: That is a club.

Hon. Mr. CALDER: Yes. I am not eliminating the club.

Hon. Mr. BALLANTYNE: You say they will work better together if there is no club.

Hon. Mr. FORKE: You will split the country in two.

The CHAIRMAN: Order, gentlemen, please.

Hon. Mr. CALDER: I thought I had made myself clear.

Hon. Mr. FORKE: It is plain enough.

Hon. Mr. CALDER: Some of the members of the committee are not clear upon it. I am not interfering with the Bill.

Hon. Mr. SHARPE: You are putting the club in the hands of the Government.

Hon. Mr. CALDER: No, I am not. Let us pass the Bill as it is—

Hon. Mr. SHARPE: Why pass it at all if your contention is correct.

Hon. Mr. CALDER: Pardon me, Mr. Chairman, I must make myself clear.

The CHAIRMAN: They think you are trying to hang the club in another place.

Hon. Mr. McLENNAN: You hide the club.

Hon. Mr. GRIESBACH: You keep it behind your back all the time.

Hon. Mr. CALDER: I believe in the co-operative principle, that the two companies should co-operate to the fullest possible extent as provided in the first two parts of the Bill. I believe we should provide for an arbitral board, but I hold that that arbitral tribunal should not come into existence at present, that as Senator Lynch-Staunton has said, that part of the Bill should be held in suspense until we find that the two companies are not co-operating fully to effect economies of all kinds. Then I say we should provide that part III be brought into effect. I am not giving the Government a club, I am simply giving them power to put into effect that part of the Bill when the two companies have failed to co-operate in effecting the economies that we are looking for.

Hon. Mr. L'ESPÉRANCE: You impose a time limit for that?

Hon. Mr. CALDER: Not at all. Parliament will meet within a year. They will bring it into effect.

Hon. Mr. FORKE: Would the C.P.R. like the club any better from Parliament than from this Tribunal?

Hon. Mr. CALDER: The Tribunal is the club.

Hon. Mr. FORKE: The Government will direct the Tribunal to use it.

Hon. Mr. CALDER: Parliament is creating the club, in fact we are in process of creating it now. I agree with Senator Lynch-Staunton that while we create the club by this Bill, we do not need to bring it into effect except by proclamation of the Governor in Council when the necessity arises to make it desirable to do so.

Hon. Mr. LYNCH-STAUTON: I do not think we are regarding what to my mind is the most important view. This clause is condemned by the great corporation, the Canadian Pacific Railway. They have 150,000 shareholders, they have enormous commitments, they have a great amount of money borrowed on bonds, and they have a necessity for credit. Now, Mr. Beatty has said that the creation of this tribunal is going to embarrass them, no matter if it is brought into operation justly and fairly or not. In any event it is going to embarrass them in their credit, in their financing, and I say that that is the ground upon which I made this motion. I am not thinking about the operation of the Act, I am thinking of keeping off as long as we can this undesirable feature of the

Bill, because we all know that no one wishes to bring an enactment of this kind into effect unless it is an absolute necessity. Mr. Beatty says they will accomplish what we want them to accomplish without putting this provision on the statute book, without advertising to the world that the Government of Canada is operating this road and not the directors. If Mr. Beatty can carry out the purposes of this Bill, that blemish will never appear on their charter. It is in order to preserve their credit in the money markets of England that I wish to suspend the operation of part III as long as possible.

Hon. Mr. BALLANTYNE: And if they do not co-operate?

Hon. Mr. LYNCH-STAUNTON: If we find they will not co-operate, we shall be in a position to tell the world that for the salvation of the C.P.R. we are putting this into operation, that the C.P.R. is being so badly managed that its directors are going to destroy their property. That is the position we ought to be in. To put it into operation now before we have given them an opportunity to obey the injunctions contained in this Bill is bad policy in every way. At the present time they are frightened to death. The other day a stockholder from England came into my office and said to me: "Didn't I tell you? They ruined us and they are going to ruin you. They are determined to destroy the C.P.R." He told me that that is the argument now being used in England, that we are taking possession of this road, taking the responsibility of the management, and are going to take it away from them. Whether true or untrue, that will impress the English market. All the financing people are against Government interference, and it will certainly affect the credit of the Canadian Pacific if we put this in the Act. Certainly we should not do anything to injuriously effect the Canadian Pacific until we are compelled by the circumstances to do so.

Hon. Mr. GILLIS: Mr. Chairman, I have to confess that I fail to see where the difference comes in whether Part III of the Bill be put into effect or is brought into operation by proclamation. The club would still be hanging over their head just as much in either case. We are endeavouring to keep away from the Government as much responsibility as we possibly can in connection with this work. I have not taken a very active part in the deliberations of this committee, but I have watched them very carefully, and I consider part III is the most essential part of this whole Bill. If you eliminate that you might as well have no bill at all. The effect then would be just as if two lawyers were arguing a case without a judge and jury. The other day when Mr. Fairweather was asked what would happen in the event of both railways disagreeing on a very important matter affecting the taxpayers, he shrugged his shoulders, as much as to say "Nothing will happen." That is what will happen without this Part III. I do not think it is going to work against the C.P.R. any more than it is the other road. The object of the legislation is to try to bring the two roads together to save the taxpayers of Canada. Part III will not injure them in any shape or form, it will only be put into operation in extreme cases. For that reason I consider this part of the Bill is its essential feature.

The CHAIRMAN: Any further discussion, gentlemen?

Right Hon. Mr. MEIGHEN: Gentlemen, I could not justify saying nothing on so important a phase as this. If Senator Lynch-Staunton's amendment is passed I think it should be in this form:—

That a section be added to section 27 as follows: This part shall come into effect only upon proclamation of the Governor in Council.

This is the usual form, and it is not at all an unusual provision in bills. A great deal can be said in its favour, and I can assure you the point raised by Senator Lynch-Staunton has been very, very carefully reviewed, because of the objection which the C.P.R. takes to this feature of the Bill. The Canadian Pacific has urged that this feature constitutes an assumption of control in a serious measure of the operations of their company by a tribunal not selected by themselves, and

they say if it passes it will affect their credit and will be an interference with their charter rights. If Senator Lynch-Staunton's amendment is carried it must be remembered that then the Bill will still be open to the argument—if the argument is sound—that there are features of it which are an interference with the charter rights, and which on coming into effect, or even perhaps before coming into effect and while still merely in potential effect, will mitigate against the credit of the Canadian Pacific.

The very passing of the legislation itself is a declaration by Parliament that we have the right to do it and that it is just legislation. We cannot pass it and hold it in the air and admit the argument advanced by Mr. Beatty that it is unjust interference with the charter rights of the company and destructive of its credit. If we think that, we should not pass it at all. If we did not pass it there would be this advantage, that the Canadian Pacific would not then be in a position to say "You brought into effect legislation which has interfered with our operations. Now our results are unfortunate and therefore we have claims in equity on this country and the Government of Canada." They could not very well say that if the Act does not go into effect, and that I suppose would be an argument of substance in favour of not passing the measure. But against that I want to advance the following contentions. Although I have heard Mr. Beatty before this committee and at Toronto, and have had the advantage of arguing the matter with him privately, I have not been able to get his view-point that the erection of these tribunals with the provisions by which they are surrounded, would be in any degree at all an assumption by a creature of Parliament of the operating powers that should belong to the directors of a private company. First of all I want to emphasize that this tribunal is not a directing, operating tribunal, in any way, but is practically a judicial tribunal. You do not take control of the business of a company, much less of two companies, if you provide a tribunal for the settlement of differences that arise. You are not running their business by doing that, but merely providing machinery by which their conflicting views may be resolved and a decision arrived at. That is the very essence of law; that is what all law is for, what all courts are for.

In this case we feel that special kinds of differences may arise between the two great corporations, and we do not think that the ordinary courts are the proper places to which these disputes should be referred; therefore we ask for a specially equipped tribunal to decide them. I do submit that to do so is in no sense to assume in any degree at all responsibility for the management of either railroad system. I argue that all the more confidently for this reason, that the Bill states most distinctly there can be no jurisdiction in any tribunal unless that tribunal is convinced that on a dispute a decision can be arrived at which, when given effect to, will result in economies and better remuneration for the systems. Unless it has that conviction it has no jurisdiction at all. Therefore it follows that unless the tribunal is wrong the Canadian Pacific cannot be injured. The Canadian Pacific admittedly can be injured if the tribunal makes an error. And so can it be injured if the Supreme Court of Canada, or any other court of the land, makes an error.

Hon. Mr. GRIESBACH: Or the Railway Commission.

Right Hon. Mr. MEIGHEN: Or the Railway Commission. But Parliament is vesting in a body of men in whom it feels it has reason to have confidence, the power to decide disputes between two great corporations, and saying to those men "You must not give effect to any decision unless it is shown to you and you are convinced that that decision in effect will result in benefit to the companies."

This is not specially an argument for calling the legislation into effect at once, but an argument for the general principle of this part. That argument is reinforced, in my mind, by the very pertinent observation of Senator Robertson this morning. In Senator Robertson's mind there doubtless was this thought:

"You have had the right all along to co-operate. There has been nothing in the world to prevent you co-operating, except your own selfish wills and inability to meet. There has been no law interposed to prevent you from effecting great economies, but the fact is that you have not done so." And he said to Mr. Flintoft, "Now, if this clause had been in effect and there had been a court to which you could resort for the purpose of bringing the two companies together on a practical footing of finality, would you not have saved a lot of money?" I do not think Mr. Flintoft took the responsibility of saying that a lot of money would not have been saved in that way. I venture to say that if he had his mind would have gone a few thousand miles out West to the city of Vancouver. Would the Canadian Pacific not have liked to have this clause in effect when steps were being taken to erect an \$8,000,000 or \$10,000,000 hotel there? If that clause had been in effect, would the C.P.R. not likely have said "We have a hotel which provides all the accommodation that is required now and that is likely to be required for years to come, and if it should prove insufficient we can build a piece to it, we can put on two or three storeys." If the Canadian National had replied, "Yes, but we want something to induce people to travel on our lines instead of on yours." Then the Canadian Pacific would have said, "We will form a company and turn this hotel over to them. We will take shares in that company at a certain price, and if more money is required we will supply it in certain proportions."

Of course, they would not have got anywhere with those arguments unless some such clause as this was in effect. For each company would have stood on its own rock of pride and said, "No, we won't go into that. We are a great corporation and we have as much money as you have. We can afford to build a hotel and we are going to build one." Mr. Flintoft would have had no means to bring the companies to their senses; he would have been simply stymied. But if this Bill had been in effect I venture to say there would have been a saving of a great amount of money. I will not make reference to any other cities, although one certainly could do so, as for instance Halifax. The conclusion is inevitable that there could have been nothing better for the Canadian Pacific, and certainly nothing better for us, if there had been such a measure as this in effect during the past few years. I do not mean that there should have been a measure in the form of a club over the head of the company. We are often deceived by mere phrases or names, but here is something in the nature of a way out, a method of resolution, a body whose duty it is to determine and end disputes, the end of which inevitably will result in a saving of money.

Now, I do not pretend to be a railway man or a very great business man of any kind, but surely it stands to reason that legislation of that kind would not destroy the Canadian Pacific's credit. For the life of me I cannot see why it will not help the Canadian Pacific.

Hon. Mr. LYNCH-STANTON: Because they won't understand it. Mr. Beatty has put forward another view of it.

Right Hon. Mr. MEIGHEN: Yes, he has put forward another view of it and spread that view very widely, and shareholders might be alarmed. But I do not think we can be deterred merely because of an unjust alarm. We have to investigate and see whether there is cause for the alarm or not, and depend upon the great effects of time, the healing influence of time. Just a few months of this, even if there is never a tribunal erected, will do a lot to dispel that alarm. And one decision from the tribunal, which must, unless the tribunal makes an error, be of benefit to both railroads, will further help to dispel that alarm—not only help to dispel it but to build up in place of that alarm a renewed confidence in the great Canadian Pacific Railway and its enterprise. I can understand the Canadian Pacific, possibly, not wanting to be in the position of acquiescing in the measure; there may be a certain shrewdness in that course; but I cannot understand the reality of their fears as respects the

operation of a judicial tribunal specially qualified to do them good. I do not want to be taken as arguing and pressing firmly against the adoption of this clause; personally I prefer the Bill without this last clause; I hope the committee will not pass it, but I do not think it will be destructive of the Bill, if it goes through. I believe that we are thoroughly convinced—I am—that the general effect of part 3 is going to be valuable. It is true that it will change the psychology of the negotiating parties, but in my judgment it will change it for better, not at all for the worse. I do not see for the life of me how the psychology is going to be any better by reason of keeping the club, if you call it that, hanging in the belfry instead of on the door. The club is there just the same. It is true that it cannot be brought into action as quickly, because there have to be two steps taken instead of one—you have to get the Governor in Council to call the clause into effect first, and then the tribunal. The psychology will not be one whit better without such a provision as this; in my judgment, whether you have clause 27 or not, you will have a better psychology for negotiation by reason of it than you will have without it. Men get together in a lawsuit far better, and save costs, if they know there is a court above—as they do—that is going to decide it for them. How many lawsuits would be settled if there was not a court to assess costs?

Hon. Mr. McLENNAN: Is not the honourable gentleman placing too much dependence on the passage of time in effacing the alarm of the shareholders of the C.P.R. and the financial houses? He will remember the Grand Trunk case, where a very careful inquiry was made, and where we in Canada thought we were very liberal. Yet, more than a decade has elapsed, and there is still a vigorous group of people who are saying the Government of Canada treated the shareholders of the Grand Trunk very badly. What is thought by highly accomplished people like the right honourable gentleman, or by more ordinary persons who hear his statement of the case, is not so important—particularly in view of Mr. Beatty's strong expression of opinion—as the effect that such legislation will have in the money markets of the world with respect to the C.P.R. and other institutions in Canada.

Right Hon. Mr. MCHENRY: The effect of time in dispelling alarm is one thing; the effect of time in banishing hope is another. Time and experience will show very quickly that the alarm is entirely unfounded, but time will never remove from the breast of some fellow who would like to get some money the hope of getting it. I cannot express the psychology of the Grand Trunk shareholders any better than that.

Some Hon. SENATORS: Question.

Hon. Mr. BALLANTYNE: Senator Lynch-Staunton and Senator Calder are proposing something that to my mind is very much worse than the arbitral tribunal. Senator Lynch-Staunton in a very fervid way has endeavoured to show how it would affect the credit of the Canadian Pacific Railway in London if this were to go through. But he proposes that the Governor in Council shall keep a sentry in the Peace Tower, with his rifle loaded and cocked and pointed at the two railways, ready to bring it into operation when he makes up his mind that they are not co-operating to his satisfaction. If Senator Lynch-Staunton were a stockholder in London, would he not feel that the sword of Damocles was dangling over his head, and would he not be just as frightened of the power vested in the Governor in Council?

Hon. Mr. LYNCH-STAUNTON. No. I would be sure it would never fall.

Some Hon. SENATORS: Question.

The CHAIRMAN: I will read the proposed amendment:

27. This part shall come into force only upon proclamation of the Governor in council

Hon. Mr. L'ESPÉRANCE: What is it?

The CHAIRMAN: This is a straight motion. I shall read it again:

This part shall come into force only upon proclamation of the Governor in Council.

The proposed amendment was negatived: Yeas, 11; nays 17.

Right Hon. Mr. MEIGHEN: Now, there are certain other alterations.

Hon. Mr. LYNCH-STAUTON: Before you go on may I call attention to a notice of amendment that I gave:—

Nothing in this Act shall be construed to confer any vested rights in the trustees or to commit Parliament irrevocably to the scheme of management and operation of the National Railways; and Parliament shall be at liberty, without accusation of bad faith, to repeal, alter, or amend this Act as it may be proper in the public interest.

Right Hon. Mr. MEIGHEN: That will be part 4?

Hon. Mr. LYNCH-STAUTON: Yes

I am strongly in favour of this clause, but if the leader of the Government is not in favour of it there is no use my arguing it, so I move it without further explanation.

Hon. Mr. SHARPE: Explain it.

Hon. Mr. LYNCH-STAUTON: I do not know that there is any use explaining it. I remember appearing before the late Chancellor Boyd in Toronto on one occasion. Before the time came for me to make my argument I saw him writing his judgment, and when he called on me I told him there was no reason for argument now, that he had written his judgment. He was rather embarrassed, but he admitted that he had done so. As I say, the leader has entered judgment one way or the other, and if he is against this there is no use me wasting my breath on it.

Hon. Mr. FORKE: Why?

Hon. Mr. LYNCH-STAUTON: Because I do not think I can convince this committee against the leader.

Some Hon. SENATORS: Oh, no. That is wrong.

Hon. Mr. L'ESPÉRANCE: That is not right. You must try to convince us.

Hon. Mr. LYNCH-STAUTON: I do not say he is against it.

Right Hon. Mr. MEIGHEN: You did pretty well last time.

Hon. Mr. BEIQUE: It would be unnecessary for you to argue if he has made up his mind.

Hon. Mr. LYNCH-STAUTON: However, in deference to Mr. Sharpe, I would add a few words to what I said the other day. My opinion is the Government is going to be held responsible anyway. They have got to clean the Augean Stable, and in my frank opinion it will be pretty nearly impossible for them to do very much under this Bill unless the power of the Government is there to enforce compliance. The two railway companies will be, as Senator Robinson pointed out this morning, just as they have always been. I notice that the Chairmen finally take the colour of their surroundings. You know, it was always said that the English who went to Ireland became more Irish than the Irish themselves, that they were always the people who led rebellions against their native country. This Chairman may become more of a railroader than the present railroaders. He may be a tenderfoot at the outset, but all the education he gets will be from the railroad people. I have great confidence in this Government not only as a party man, but I believe we have got at its head a leader who thinks of nothing but Canada, and I believe he will watch over the adminis-

tration of this Act. Therefore, I think it would be a national disaster if we have such legislation as will put it out of his power to interfere. That is one reason why I want it to be clearly laid down that this Act is not to be construed as a law of the Medes and Persians—un-amendable, un-repealable. I want it to appear on the statutes that if the Government has come to these conclusions, no man can say that you passed an Act which you cannot recall. I should like it to be impressed right on the face of the Bill. That is my view.

Hon. Mr. L'ESPERANCE: I do not understand it.

Hon. Mr. LYNCH-STAUTON: Assuming this Bill is passed, we set up a Board of Trustees and provide that that Board are to be like the judges of the land. In the old days the judges were removable by the King, but when William III came into power a statute was passed that no judge should be removable unless for good cause, and then only by Parliament. This statute is built up on the same principle, it says that these men can only be removable on presentation of an address to the Parliament of Canada. They are self-perpetuated.

Hon. Mr. L'ESPERANCE: But cannot Parliament remove them?

Hon. Mr. LYNCH-STAUTON: Yes, by impeachment.

Hon. Mr. GRIESBACH: Could not Parliament repeal this Bill next year? That is all you are saying in effect.

Hon. Mr. LYNCH-STAUTON: No, I want it expressed in the Bill that the Act is not irrevocable.

Hon. Mr. GRIESBACH: But everybody knows that.

Hon. Mr. LYNCH-STAUTON: Excuse me, everybody does not know that. If you attempted to repeal that statute of William III, a statute that is supposed to be imbedded in our constitution forever, there would be a tremendous outcry and the people would say Parliament was going back on what is Magna Charta.

Hon. Mr. GRIESBACH: That has to do with judges.

Hon. Mr. LYNCH-STAUTON: But they would say: You should not repeal that statute, you should only revoke this man's tenure of office by impeachment in Parliament.

Hon. Mr. DONNELLY: Do you mean to say Parliament cannot amend this Act?

Hon. Mr. LYNCH-STAUTON: They can amend it, but I want to put on the face of the Act that Parliament does not surrender its power forever. In principle as the Bill is drawn Parliament is giving up the right to amend the law.

Hon. Mr. COPP: In other words, we are in doubt, but we are going on.

Hon. Mr. BÉIQUE: It is a very unusual clause.

Hon. Mr. LYNCH-STAUTON: It is a very unusual clause, but it is a very unusual bill. I do not think there has ever been passed by any Parliament such a bill as this except, as I have said, the statute for judges. Now, I am in favour of this Bill. I agree with everything Senator Meighen has said. I am not at all opposed to the Bill, but I want to reserve on its face the knowledge that Parliament, without swallowing itself, can repeal this Bill. We are setting up a trusteeship that is to last forever.

Hon. Mr. BALLANTYNE: It goes without saying that that can be done, the Act can be repealed.

Hon. Mr. LYNCH-STAUTON: I know, but I want to put it in the Bill.

The CHAIRMAN: Would not this be an invitation to bring constant pressure against the Government?

Hon. Mr. LYNCH-STAUTON: You have had a great deal more experience than I, and you may be quite right, but it does not strike me that it puts any argument in the mouth of an opponent of the Bill that he has not already. Anybody can start an agitation for the repeal of the Bill at any time. I am looking

at it from the lawyer's point of view in regard to legislation. The educated public, I think, will regard this Bill as irrevocable. Nobody contends for one moment, much less a lawyer, that Parliament cannot repeal anything it enacts; that is my view. I do not suppose it is going to prevail.

The CHAIRMAN: Supposing there were an election to-morrow, there are powerful forces in existence and they can exert powerful influence in a campaign if they wish to do so. Supposing further that the Prime Minister or his opponents would say? If you elect my party we will repeal this Act by order in council. Would that be a good thing? Is this not an invitation to make that part of the Bill a subject of party conflict?

Hon. Mr. CALDER: It can be done without that suggestion.

The CHAIRMAN: But this is an invitation to do it.

Hon. Mr. LYNCH-STAUTON: It may be you are right.

Some Hon. SENATORS: Question.

Hon. Mr. LYNCH-STAUTON: It struck me as a desirable condition.

Some Hon. SENATORS: Question.

The CHAIRMAN: This is the motion by Senator Lynch-Staunton:

That the following section be added as Part IV to the Bill:—

Nothing in this Act shall be construed to confer any vested rights in the Trustees or to commit Parliament irrevocably to the scheme of management and operation of the National Railways; and Parliament shall be at liberty, without accusation of bad faith, to repeal, alter, or amend this Act as it may be proper in the public interest.

The motion was rejected.

Hon. Mr. MURDOCK: Mr. Chairman, is it the intention to go over the Bill now clause by clause?

Right Hon. Mr. MEIGHEN: We do not need to do that, Senator Murdock. In fact, we are done with that, but there are certain clauses that have not been passed. The one that would come before us first would be (g) of clause 3, Pacific Railways.

Hon. Mr. MURDOCK: I wonder if I could impose upon the patience of the committee and ask them to consider Part II a little further with a view to doing something that I regard and that I hope many others may regard as a very important matter in connection with the application of this Bill. We will all agree that a very large share of the economies that are going to result to the people of Canada from this Bill will come from the employees of the railroads. Section 16 provides for co-operative measures, plans and arrangements by the C.N.R. and C.P.R., and sub-clause (2) says:

Without restricting the generality of the foregoing, any such measures, plans or arrangements may include and be effected by means of—

(c) joint trackage, running rights, joint ownership, or joint operating agreements, depending upon the nature of the property or services included in any co-operative plan.

Now, if some of these things are put into effect—and no doubt many changes will be made along these lines—the persons who will be affected most will be the employees, for lesser man power will be required. Senators Lynch-Staunton and Calder referred the other day to the possibility of the Canadian Pacific line from Sudbury to Port Arthur being discontinued. I do not fear anything of that kind, but it was looked upon as something that could possibly happen. Let us visualize this.

Hon. Mr. BALLANTYNE: That was only a dream.

Hon. Mr. MURDOCK: I know it was only a dream, but let us look at it to see what would happen if that were done. That would mean that all the westbound freight and passenger traffic would pass over the Canadian National tracks from Sudbury to Sioux Lookout, and over the National Transcontinental into Winnipeg, then over the old C.N.R. into Port Arthur. In other words, the C.P.R. from Sudbury to Port Arthur would be only a streak of rust, if it was maintained at all. In that event, what about the men with thirty or forty years of seniority built up to their credit? Surely we should give some consideration to what should be done with respect to them. Surely some of these men should be permitted to continue handling part of the traffic that they have been handling for years, and thus have an opportunity to make some little income out of the work in which they have been engaged for so long. I repeat that the employees will bear the largest part of this burden resulting from economies, and I think we should do something to protect the interests of those employees. I would like to have the following added to sub-clause (3) of section 16:—

In all cases where joint trackage, terminal, or running rights agreements encroach on, or unduly affect, the work of employees on one line to the advantage of employees on the other line, necessary action (on prompt and proper notice) shall be taken to provide for an equitable allotment of the co-ordinated work as between the employees of both lines.

I am not wedded particularly to the language used there, but I think my thought is made clear. It may be said that what I am advocating here will be done in any event. But we all know what human nature is, and if the elimination of Canadian Pacific tracks that I visualized a moment ago were to take place the Canadian National men between Sudbury and Port Arthur or Winnipeg might say to Canadian Pacific men, "Well, that is just your hard luck. We have got the service and we have men enough to look after it and we are going to handle all of it." Now, that would not be fair and equitable for those men who had been engaged on the Canadian Pacific line, to be thrown out of work and have nothing in sight. All I am asking that we do is what some of us would undertake to do anyway, without any provision to that effect in the Bill. But it would be extremely helpful if the committee would indicate its view that something of this kind should be done; it would be extremely helpful to those who will have to deal with the matter later on, and I hope that the committee will incorporate something like this in Part II.

Hon. Mr. GRIESBACH: Would that be likely to prove embarrassing to the negotiators, the two companies when they were negotiating in the first place?

Hon. Mr. MURDOCK: Oh, no, I think not. You will find these men generally loyally and zealously looking after the future of their own employees; each railway will be wanting their own employees reasonably taken care of. Only the other day I had a concrete case—I am not suggesting that it had any particular reference to this Bill at all—where the Quebec Central abolished its yard work at Sherbrooke and the Canadian Pacific is handling all the work. I had to go in and make a decision. I imagine there is an appeal from it, but what I am trying to make clear is that the principle of dividing up the work equitably is right. If this committee would indicate its view that something of this kind should be done, representatives of the employees will help to determine what is equitable.

Hon. Mr. L'ESPERANCE: I will second that motion by Senator Murdock. I am an old railroad man, as you know, and many requests have come to me exactly on the lines of what Senator Murdock has pointed out. I will go further than he has done. I think it would really help the railways to effect some economies, because we all know that railwaymen exercise a great deal of influence wherever they reside, and if these men on the lines to be abandoned,

or the terminals, or whatever it is that it is decided to close down, knew that their seniority rights would be recognized, I think it would help the railways to effect the economies.

Hon. Mr. GRIESBACH: The word "seniority" is not used in this connection.

Hon. Mr. MURDOCK: No. I have just tried to convey the thought of what should be done, and have left the rest to someone else.

Right Hon. Mr. MEIGHEN: I hope I understand what Senator Murdock is aiming at. I will express it as I interpret it, and if I am wrong he will correct me. It is this. He said that one or both of the railroads may evolve a plan for effecting very considerable economies, and this plan may mean the abandoning of trackage or of a terminal on one of the lines. The result would be that the employees of the abandoned line or terminal would lose their work, and the employees on the other line or in the other terminal would get more work, and the injustice would be done, particularly because of the seniority rights, to those employees who are out of work. New men, perhaps, would be taken on by the company that gets the accession of traffic, while men who for years had been working in the terminal abandoned would be out in the cold. He would like some clause in the Bill to cover that, and suggests that after subsection 3 of section 16 there should be a direction to the representatives of the two systems to endeavour to distribute the enhanced work on the one line among the employees of both, and to have particular regard to seniority rights in such distribution.

Hon. Mr. GRIESBACH: Does it say that?

Right Hon. Mr. MEIGHEN: It may not say that.

Hon. Mr. GRIESBACH: That may be an embarrassing expression ultimately.

Right Hon. Mr. MEIGHEN: I am not speaking of the wording, but am trying to define the object Senator Murdock has in mind. If that is the object, speaking with such limitations as appertain to one who is not engaged in the railway business, it is pretty hard to say that it is not a fair object. My difficulty is to know how to attain it, and to be sure that we are not putting obstacles in the way of obtaining practical results. I can imagine, for example, that the men along a line will have their homes there, and when it is abandoned they will have to move them over to the other line. This will involve very considerable expense, which perhaps the company will have to bear. I can imagine also that in the practical working out it would make it difficult for the road to choose their employees. There are possibly many other difficulties that I cannot perceive. I have a great deal of sympathy with the object of the proposal and would like some opportunity to study it.

Hon. Mr. LYNCH-STAUNTON: Is that the intent?

Right Hon. Mr. MEIGHEN: I think I have defined the object correctly.

Hon. Mr. MURDOCK: Yes.

Right Hon. Mr. MEIGHEN: In taking on men they will take on new men, perhaps, and will leave out in the cold other men with maybe twenty years service.

Hon. Mr. LYNCH-STAUNTON: I don't understand that seniority goes to that.

Right Hon. Mr. MEIGHEN: It is a system that prevails in the labour organization, and that is recognized by the railways. Senator Murdock wants that seniority to be recognized in the distribution of the work that is going to be available on the road that gets the extra business under the new plan.

Hon. Mr. MURDOCK: Ignore seniority and use the term "employee's status." If a C.P.R. terminal were abandoned, the C.N.R. would say "We have lots of men to do the work." Probably they would have. But the C.P.R. men who

had lost all of their work by reason of the changes made have a right to follow that work.

Hon. Mr. GRIESBACH: Read the amendment.

Right Hon. Mr. MEIGHEN: The wording may not be right. The idea is to have some concern, especially for the older employees, who, in a sense, have built up on the one line the work they are doing, and which is now being lost to the other line; and to secure recognition of their claims in respect of employment on the line that is getting the business.

Hon. Mr. BALLANTYNE: Aren't you going to interfere with the management?

Right Hon. Mr. MEIGHEN: That is what I am afraid of.

Hon. Mr. MURDOCK: The managements will say "O.K. and God bless you." I feel quite sure of that. I am quite sure they will both say it is the proper thing, and that even if you don't put it in the management will want to do it. But some of the employees will want to buck the game.

Hon. Mr. CALDER: I doubt very much if we should not make some provision along this line in the Bill. There are those employees who, as a result of this co-operation, are going to be thrown out of work, and another set of employees belonging to another system may get a considerable advantage as a result of the abandonment.

You will probably be able to give us some idea as to what will actually happen in practice in the case of abandonment of a line, Mr. Murdock. Let us assume, for example, that the C.P.R. abandons its line between Sudbury and Port Arthur. That would mean that there would be one line used for the carrying of the traffic, but the C.P.R. would run its trains over that line. That is, the C.N.R. would not handle all the traffic for the C.P.R., but each would have running rights, and each would have the right to use his own employees. Would your case arise where they used a common property? I cannot even conceive that it would happen there?

Hon. Mr. MURDOCK: If that happened and they got running rights that might possibly take care of it. But let us consider a concrete case that I had less than three weeks ago. The Quebec Central Railway for thirty or more years maintained a yard at Sherbrooke, Quebec, and a roundhouse staff, in short, all the necessary terminal forces. It has been operated for all these years as a separate line. Recently in carrying out economies on the Canadian Pacific, the Canadian Pacific decided to abolish all of the terminal facilities of the Quebec Central. A yard crew, enginemen and yardmen that had been working every day in the month eight hours a day were put out of business. The work for all the terminal forces of the Quebec Central was to be performed thereafter by the Canadian Pacific forces at Sherbrooke, which is the terminal. The Quebec Central men said: We have had twenty-six eight-hour days on these yard engines for all these years, and we are entitled to that yet. They were told: No, there are economies being put into effect, and this arrangement is being made to reduce the cost of operations. We figured the number of hours work to handle the Quebec Central would be about four hours a day for a yard crew, so we gave them thirteen eight-hour days per month. That is, one Quebec Central crew, with foreman and two helpers, would be placed on a Canadian Pacific yard engine for thirteen days a month. That went along for the month of November, and they got nothing. This year, 1933, we gave them 14 days for each month of the year on account of that change, and it is generally a satisfactory arrangement that is as equitable a distribution as could be made.

Hon. Mr. LYNCH-STANTON: Why won't that prevail afterwards?

Hon. Mr. MURDOCK: It would generally, but we happen to know of the influence that can be used here, there and in other places. As I said a little while ago—I hope the committee will pardon me if I say it again—the largest share

of these economies is going to fall on the workers. If that is the case, surely this committee will be short-sighted—I will not say unfair, but they will be thoughtless if they do not convey some sympathetic desire to serve the interest of those workers who are going to bear the brunt of the burden. That is all. If you say there is nothing to it, we will try to work it out ourselves, but the workers on the Canadian railroads who are going to bear the heaviest burdens of these economies will say: You have not entirely over-looked us if you will take this into consideration.

Right Hon. Mr. MEIGHEN: I am not only willing to make a gesture, I am willing to do something of real value, if we can do it, but it cannot be thought out without some time for consultation. The only thing that is bothering me now is that I should like to have this Bill passed the committee to-day. If the committee is anxious to have it done, I will undertake to give some attention to the subject of Senator Murdock's request. It does strike me as very fair. If we should pass the Bill, this undertaking will still stand, and if we can work it out at all an amendment to that effect will be submitted to whoever will be in charge of the Bill in the Commons. If the committee would rather adjourn to-day and meet again we will try to have it ready to-morrow.

The CHAIRMAN: You can amend the Bill on third reading.

Right Hon. Mr. MEIGHEN: Then we can pass the Bill here, I will confer with Senator Murdock, and if we can agree on a clause at all it will be moved in the Senate.

The CHAIRMAN: I think that is a very satisfactory arrangement up to date. I do not know how satisfactory it will be when we get further on.

Right Hon. Mr. MEIGHEN: Let us take the definition of "Pacific Company." The definition as now under consideration is on page 6 of the amendment and appears as "C":—

- (g) "Pacific Railways" means and includes—
- (i) the Pacific Company;

and so on. The suggested change is this, and I am sure the committee will adopt it, unless there appears to be any substantial objection to it:—

- (g) "Pacific Railways" means and includes—
- (i) the Pacific Company in respect of its rails and communications and inland and coastal steamship services within Canada or upon the coastal waters thereof;

That is instead of just "the Pacific Company."

(ii) All other companies engaged in or empowered to engage in transportation of passengers or freight or the transmission of messages which are elements of the rail and inland and coastal steamship transportation communication of the Pacific Company.

- (iii) The Pacific Company in its capacity as manager or operator of
- (a) any railways within Canada, or
- (b) any other land, air or inland or coastal water transportation purposes within Canada, or between the coastal waters thereof.

Mr. Flintoft, will you kindly tell the committee just what this omits and just what is included.

Mr. FLINTOFF (C.P.R. Counsel): Yes, sir.

The definition as it stands on page 6 of the amendments includes first the Pacific Company, which under the definition in section 3, original (c), read as follows:—

Pacific Company means the Canadian Pacific Railway Company. And then the following words, which it was intended to strike out:—

and includes every company comprised in its system or its undertaking, whether or not engaged in actual transportation, and every company controlled by or allied with it.

It was proposed in the suggestions submitted in connection with this new clause (e) to leave those words out. Clause (ii) of the definition is that it includes:—

All other companies, whether or not railway companies, and whether or not engaged in or empowered to engage in transportation of passengers or freight, which are elements of the transportation and communication system of the Pacific Company:

That is the way clause (ii) reads as printed. We have changed that to read, as you will see:

(ii) all other companies, engaged in or empowered to engage in transportation of passengers or freight or the transmission of messages which are elements of the rail and inland and coastal steamship transportation and communication systems of the Pacific Company.

I should like to add, "within Canada."

Right Hon. Mr. MEIGHEN: Can you tell us what is included in the old that is not included in this?

Mr. FLINTOFT: The corresponding provision in the old one says "whether or not railway companies and whether or not engaged in or empowered to engage in transportation of passengers or freight."

Hon. Mr. LYNCH-STAUNTON: What does this exclude that was included in the first,—ocean steamers?

Mr. FLINTOFT: Of course it excludes them.

Right Hon. Mr. MEIGHEN: Were they not excluded before?

Mr. FLINTOFT: No. The definition as set out in this printed memorandum is all inclusive; I should say that everything that the company owned or could own is included in that definition of Pacific Railways.

Right Hon. Mr. MEIGHEN: But only those companies that operate in Canada are included in so far as the arbitral tribunal's powers are concerned.

Mr. FLINTOFT: I do not so see it, sir.

Hon. Mr. LYNCH-STAUNTON: Are you not trying to limit it to the rails and the inland water transportation?

Mr. FLINTOFT: Yes.

Right Hon. Mr. MEIGHEN: What about hotels?

Mr. FLINTOFT: In discussing it with our President it was not our idea that the hotels should come under the jurisdiction of the arbitral tribunal. And I do not find any reference to the Duff Report indicating that the hotels were to come under that jurisdiction.

Hon. Mr. CALDER: What about smelters?

Mr. FLINTOFT: I do not think they are included.

Right Hon. Mr. MEIGHEN: It certainly was intended that hotels should come in. That is one of the main avenues for economies, certainly.

Hon. Mr. GRIESBACH: The Commission's report referred to the losses on hotels.

Hon. Mr. LYNCH-STAUNTON: What does your phraseology mean?

Mr. FLINTOFT: We are trying to get it as definite as possible, sir. It means that it covers the Canadian Pacific Railway Company, but only to this extent, only in respect of its rails and communications and inland and coastal steamship services within Canada or upon the coastal waters.

Hon. Mr. LYNCH-STAUNTON: Ocean steamers are excluded.

Mr. FLINTOFT: Yes.

Hon. Mr. CALDER: And smelters are not included?

Mr. FLINTOFT: No.

Hon. Mr. CALDER: Telegraphs?

Mr. FLINTOFT: Yes, because they are communications.

Right Hon. Mr. MEIGHEN: What would be excluded by your definition besides a company like smelters, or ocean steamers or hotels?—

Mr. FLINTOFT: Lands.

Hon. Mr. LYNCH-STAUNTON: Your western lands?

Mr. FLINTOFT: Yes. And our interest in the Soo line, for instance, outside of Canada, would be excluded.

Right Hon. Mr. MEIGHEN: Would it not also exclude your office buildings?

Mr. FLINTOFT: No. They are part of our rail system.

Right Hon. Mr. MEIGHEN: Not much more than your hotels are?

Mr. FLINTOFT: Oh, yes. You cannot run a railway without offices.

Right Hon. Mr. MEIGHEN: You say you cannot run a railway without hotels.

Mr. FLINTOFT: No, we do not say that necessarily.

Hon. Mr. LYNCH-STAUNTON: Your lands are not owned by the Canadian Pacific itself?

Mr. FLINTOFT: Oh, yes.

Hon. Mr. LYNCH-STAUNTON: Have you not a subsidiary company for that?

Mr. FLINTOFT: No.

Hon. Mr. MURDOCK: The Duff Report concludes three pages of reference to hotels on both lines with these words:—

It is a deplorable example of a wasteful expenditure of public and private money and one that places a permanent serious financial burden upon both systems.

Mr. FLINTOFT: They do refer to the hotels, there is no question about that.

Hon. Mr. LYNCH-STAUNTON: Why do you not tell us what you want excluded?

Mr. FLINTOFT: I have been trying to do that sir.

Hon. Mr. BALLANTYNE: Lands, ships and hotels.

Mr. FLINTOFT: I think perhaps it would be more definite to say what should be included rather than what should be excluded.

Hon. Mr. LYNCH-STAUNTON: We want to know what the result would be.

Mr. FLINTOFT: As I understand it, the original purpose of the Report and of the Bill was to include the rail system with its incidental services. Now, if you will refer to the first draft of the Bill you will see that there was a definition of the Pacific Company in these words:—

“Pacific Company” means the Canadian Pacific Railway Company and includes any company comprised in its system or controlled by or allied with it.

In some discussion by the committee I think it was Senator Lynch-Staunton who pointed out that that definition was too wide, and in the first redraft the definition was changed to read in this way:—

“Pacific Company” means the Canadian Pacific Railway Company and includes every company comprised in its system or its undertaking whether or not engaged in actual transportation.

Right Hon. Mr. MEIGHEN: There is no doubt that the Royal Commission intended that hotels should be included. At page 67 of their report, right before their conclusion, they say:—

Both the Canadian National and the Canadian Pacific at present own either directly or indirectly through subsidiaries, hotels, telegraph systems and express services, each company's service being operated at many points in competition with that of the other. . . .

It is admitted that competition in some of these services had lead to a great deal of unnecessary capital expenditure and to their development beyond what is actually required.

It is the opinion of the Commission that aggressive competition should cease. . . .

Mr. FLINTOFT: I had overlooked that reference, sir. There are, as you pointed out, sir, one or two places where there has been an overlapping of hotels. Winnipeg, of course, has been served by both companies for a great many years.

Right Hon. Mr. MEIGHEN: Over-served.

Mr. FLINTOFT: Possibly, but the local people did not think so, perhaps. There are the other two cities. However, in Halifax the hotel is not owned by the Canadian Pacific but by a separate company. It started as a local enterprise.

Right Hon. Mr. MEIGHEN: I do not think the Canadian Pacific was the chief sinner there.

Mr. FLINTOFT: No, and I do not think we were the chief sinner at Vancouver. As far as we are concerned, we were not the second to go in anywhere.

Right Hon. Mr. MEIGHEN: I thought you would have welcomed this Bill with open arms.

Mr. FLINTOFT: We think we can iron out the hotel system without bringing it into this Bill.

Hon. Mr. LYNCH-STAUNTON: You think you can iron everything out.

Mr. FLINTOFT: And I think in the result we probably will, sir. I am still of that view.

If I may answer Senator Lynch-Staunton's question, paragraph (i) refers to the Canadian Pacific Railway Company in respect of the elements that we have always considered were incidental to transportation. Then in (ii) we put in “other companies”—in line with the (ii) as printed—“which are elements of the transportation system.” The only difference between my suggestion and (ii) is “whether or not railway companies and whether or not engaged in or empowered to engage in the transportation of passengers and freight.” We thought that was too wide, because it is pretty hard to say just where it would lead to.

Hon. Mr. LYNCH-STAUNTON: You are satisfied to have everything that is in the railway and inland navigation—

Mr. FLINTOFT: Yes, and I think I have done it.

Hon. Mr. LYNCH-STAUNTON: Everybody will disagree with you on hotels.

Mr. FLINTOFT: Possibly on hotels. That is a specific case. I left that out advisedly. I am not saying that perhaps they are not an element in our transportation system.

Hon. Mr. GRIESBACH: Are we discussing an amendment prepared by Mr. Flintoft, or an amendment submitted by the counsel for the committee?

The CHAIRMAN: Mr. Flintoft has prepared an amendment and submitted it to the leader of the Government.

Right Hon. Mr. MEIGHEN: Which I have just read.

The CHAIRMAN: That is what Mr. Flintoft has in his hands now.

Mr. FLINTOFT: Mr. Meighen has asked me to explain it.

Right Hon. Mr. MEIGHEN: Now, Mr. Flintoft, the intention of the Bill is to include everything in which, by co-operation, economies can be effected. We realize that that cannot be done in ocean steamships, because there are no Canadian National ocean steamships; we realize that it cannot be done in lands, because there is no way of co-operating for the working of lands, especially wild lands; and I think we realize it cannot be done with respect to a commercial company that has no relative company in the C.N.R.—like the Smelters. But we think every other one should be included so long as there is some correlative function of the C.N.R.—not that they must be transportation; but if economies can be effected they may be ancillary quite a way off. I think perhaps the definition is too wide, but yours is too narrow.

Mr. FLINTOFT: If you come to the conclusion that hotels should be included it is a very easy thing to put hotels in.

Right Hon. Mr. MEIGHEN: I would rather exclude than include.

Mr. FLINTOFT: Isn't this a fair way of looking at the matter? Everyone will admit that this is an extraordinary power that is being exercised in respect of the property of a private company. The Duff Commission report proceeded on certain well defined lines that had to do with the transportation systems of the country. Now, why should the Canadian Pacific, which has a great many ancillary powers—not ancillary powers—

Right Hon. Mr. MEIGHEN: Extraneous assets.

Mr. FLINTOFT: Extraneous assets, independent powers—independent of its transportation system altogether—why should it run any chance of having to deal with those powers under the provisions of this Bill? Isn't it a fairer thing to say what you want to put in rather than to leave it to us to guess at what we want to exclude?

Hon. Mr. CALDER: Why not make a clause excluding from the Bill smelters, lands steamships.

Mr. FLINTOFT: I say that is wrong, sir, the wrong avenue of approach. I say, in view of the fact that you are interfering with private property—I do not use that term in an offensive way—you are doing something in the case of this company that if done in the case of an ordinary manufacturing company would raise a storm of protest. Under those circumstances I say you should define as clearly as possible just what you intend to deal with in this Bill.

Hon. Mr. CALDER: Surely the C.P.R. management know what they want excluded from the Bill. You are dealing in general terms.

Mr. FLINTOFT: These are very specific terms. We can put it in here. If the committee is of the view it should go in, it can go into (i) with the least possible trouble. You just have to write in the word "hotels."

Hon. Mr. LYNCH-STAXTON: Is it not proper to include in the railways such other elements as both companies have made part of the railways? For instance, both companies have made hotels part of the railway.

Mr. FLINTOFT: I am in the hands of the committee on that.

Hon. Mr. LYNCH-STAUNTON: It not that the proper way?

Mr. FLINTOFT: I say it is a matter of the form of the section. If it is your view that that should go in, the section permits it to be written in very easily. It just says "the Pacific Company in respect of its rail communications and inland and coastal steamship services." You could put in hotels very easily. As you have it, it says "includes the Pacific Company." I say it means and includes the Pacific Company in respect of certain of its activities—not that it includes the Pacific Company generally, but in respect of particular activities which were discussed in the report and dealt with, and which, in my submission, are all that the original Bill intended to deal with.

Hon. Mr. LYNCH-STAUNTON: If one of the railways carried on a circus, it would not be included unless the other had a circus; but if both had them, it would be included.

Mr. FLINTOFT: I have no doubt the Canadian National may have some suggestions to make in regard to their definition. Their definition had to be wider on account of part I, but our definition has no bearing on part I but relates only to the co-operative features of the Bill.

Hon. Mr. CALDER: There is a chance for an hour and a half of discussion between lawyers here. I would like to move that we adopt whatever a small committee of three agrees upon as a proper definition of what is meant by Pacific Company. Otherwise we will be here till seven o'clock, and then won't have it.

Right Hon. Mr. MEIGHEN: I have been speaking to the chairman, to see if it would be convenient to meet to-morrow at twelve. This can be deferred until to-morrow at twelve, along with Mr. Murdock's proposal. I am sure we can get a definition that will be agreeable to both sides at that time. I still adhere to the principle that a Bill dealing with co-operation should include definitions of all services in respect of which there can be co-operation.

Hon. Mr. GRIESBACH: And which they both have.

Right Hon. Mr. MEIGHEN: Otherwise there cannot be co-operation.

Mr. FLINTOFT: They might not have it now, they might have it in the future.

Right Hon. Mr. MEIGHEN: Then they should be included.

Mr. FLINTOFT: May I add that in giving consideration to that feature it be made as definite as possible, not a blanket provision that might hamper the company in some of its operations and have nothing to do with the railways.

Right Hon. Mr. MEIGHEN: Yes, the definition is deferred.

The CHAIRMAN: This, together with the amendment introduced by Senator Murdock, will be deferred for consideration, if possible, when we meet to-morrow.

Right Hon. Mr. MEIGHEN: Will you please turn to page 3, line 29, clause 7. The committee will remember that we did not decide the question raised by Senator McRae. He wanted a nominating board that would be somewhat larger than the board consisting only of the remaining trustees. I think the suggestion is a reasonable one and I propose the following:—

That in line 29 of page 3 the words "the remaining Trustees or Trustee" be deleted and that there be substituted therefor the following:

A nominating board composed of the president of the Exchequer Court of Canada, the Chief Commissioner of the Board of Railway Commissioners for Canada and the existing or remaining Trustees. Such board shall be convened by the Chairman of the Trustees. In the case of an imminent vacancy the Board may convene and act in anticipation thereof.

The CHAIRMAN: Is it your pleasure that that amendment carry?

Some Hon. SENATORS: Carried.

Right Hon. Mr. MEIGHEN: Page 1, line 19. Insert between the word "under" and "this" the words "Part III of", so that it will read:—

to perform his duties under Part III of this Act. That is merely a consequential amendment.

The CHAIRMAN: Shall this amendment carry?

Some Hon. SENATORS: Carried.

Right Hon. Mr. MEIGHEN: Add as clause 8 the following:—

8. The works of every incorporated company in Canada which is comprised in National Railways but has not been incorporated by or under the law of Canada are hereby declared to be works for the general advantage of Canada, and every such company is, by force of this Act and without more, re-incorporated in its present name, with its present undertaking and in succession and continuity as respects all its affairs by, under and subject to the provisions of this Act.

That is essential in order to give effect to the provisions which bind the present directors, nominees of the National Railway, to vacate their positions as such and to have substituted for them trustees in companies of provincial charter, and there are quite a number.

Mr. O'CONNOR: 27.

Right Hon. Mr. MEIGHEN: Otherwise we have no power to do it. We effect that power by re-incorporating the company as a Dominion Company with all its undertakings "and in succession and continuity as respects all its affairs, by under and subject to the provisions of this Act," and declare the works to be for the general advantage of Canada. It is all done by one clause. It is understood that this was a legal mountain to scale, and I think it has been done in a very simple, concise and effective way.

Hon. Mr. CALDER: That incorporation includes all their powers?

Right Hon. Mr. MEIGHEN: Yes, they succeed to all the powers of the undertaking.

The CHAIRMAN: Shall that amendment carry?

Some Hon. SENATORS: Carried.

Right Hon. Mr. MEIGHEN: Clause 9, page 4. I propose to add at the end of sub-section (3) of section 9 the following,—in anticipation, let me say it is merely to provide for cases where the company is owned by the two systems half and half. There are three such companies and consequently the Canadian National, just has half the directors and the C.P.R. half. We want to provide that our directors on such a company shall be the Trustees. The provision will read as follows:—

Provided that in any case where the ownership, interest or right to operate or control of the National Company or of any element of which National Railways as defined by this Act is composed is, as respects any of such companies in Canada, partial only, because whereof after the passing of this Act part of the Board of Directors of such company will be or continue to be appointable otherwise than by the Trustees, they shall at the same time by the same force and without more become and be directors in the place and stead of that part of such Board of Directors of such company which before the passing of this Act was appointable by or for the National Company or by or for any element of which National Railways is composed; and if the number of directors appointable by them be more than three the Trustees may appoint such additional directors

of such company in Canada as may be authorized and necessary and may remove and replace them at any time without notice and without assigning cause.

Hon. Mr. LYNCH-STAUTON: How many?

Right Hon. Mr. MEIGHEN: Whatever number we have over three.

Hon. Mr. LYNCH-STAUTON: You want to make them equal?

Right Hon. Mr. MEIGHEN: That is done already. That is, the companies have agreed that where they have formed a company they shall each have the same number of directors. If ours is three, then our Trustees go on to represent our company. If there are more than three directors, then our three Trustees can name who the others are to be.

The CHAIRMAN: Do you approve that amendment?

Some Hon. SENATORS: Carried.

Right Hon. Mr. MEIGHEN: That completes consideration of the Bill, except for the two matters still reserved, Senator Murdock's proposal and Mr. Flintoft's objections to the definition of Pacific Company.

The CHAIRMAN: Gentlemen, the leader suggests that we meet at twelve o'clock to-morrow. There are only two matters to be dealt with, and we can finish the Bill by one o'clock.

The committee adjourned until 12 o'clock noon to-morrow.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL A

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

No. 12

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1933

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Ballantyne	L'Espérance
Barnard	Lynch-Staunton
Beaubien	McArthur
Béique	Marcotte
Béland	McDonald (<i>Shediac</i>)
Bourque	McLennan
Buchanan	McRae
Calder	Meighen
Casgrain	Michener
Copp	Molloy
Dandurand	Murdock
Dennis	Murphy
Donnelly	Paradis
Forke	Pope
Gillis	Rankin
Gordon	Raymond
Graham	Robertson
Green	Robinson
Griesbach	Sharpe
Hardy	Spence
Hatfield	Stanfield
Laird	Turgeon
Lacasse	Webster.
Lewis	

[Quorum 9]

THE SENATE

THURSDAY, February 16, 1933.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred Bill A, intituled: "An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes," resumed this day at 12 o'clock noon.

Right Hon. Mr. Graham in the Chair.

The CHAIRMAN: We had two hold-overs—a proposal by Mr. Murdock, and a suggestion that a new definition of the Pacific Company be adopted. I presume it is in order to take up the suggestion of Senator Murdock.

Right Hon. Mr. MEIGHEN: Pursuant to that suggestion, I move that there be added the following sentence to clause 16. Clause 16 as it now reads appears as "J", on page 13 of the amendments. This clause directs the co-operation for the purpose of effecting economies and providing for more remunerative operation, and states that this shall be done according to "plans and arrangements as are fair and reasonable and best adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes." The sentence which I move to add is:

They are further directed that whenever they shall so agree they shall endeavour to provide, as part of such measure, plan or arrangement or otherwise, for a fair and reasonable apportionment as between the employees of National Railways and Pacific Railways respectively, of such employment as may be incident to the operation of such measure, plan or arrangement.

The CHAIRMAN: You have heard the amendment. It comes in as an added sentence in clause 16, after the word "purposes."

Some Hon. SENATORS: Carried.

The CHAIRMAN: Shall we amend the Bill accordingly?

Some Hon. SENATORS: Carried.

Right Hon. Mr. MEIGHEN: We also reserved, as the chairman has said, the definition of Pacific Companies; but before taking that up I wish to move an added group of words to the end of subclause (ii) of paragraph (c) of clause 3, which appears on page 5 of the amendments, which is the definition of National Railways.

Add at the end of subclause (ii) of paragraph (c), the following words:
which system shall be deemed to embrace the Canadian Northern Railway System.

It appears that the counsel of the Railway Department is doubtful whether as defined it would include the Canadian Northern. Of course, that is the principal thing to be included.

Hon. Mr. CASGRAIN: There was an editorial on that in the newspapers yesterday.

Right Hon. Mr. MEIGHEN: I didn't know that. That seems to be one thing in the newspapers that was worth while.

The CHAIRMAN: Order.

You have heard the amendment. Is this approved of?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Shall clause 3 be approved of as amended?

Some Hon. SENATORS: Carried.

Right Hon. Mr. MEIGHEN: Mr. Chairman, with respect to the definition of "Pacific Railways" which appears as (g) to clause 3, I regret to say we have not come to an agreement as to how this should be defined, and possibly on third reading we may have another amendment to propose if it becomes possible to have it defined agreeably to the Canadian Pacific.

It will be noted the definition says that "Pacific Railways" means and includes—(i), (ii), (iii) and (iv). For the present I beg to move the following:—

That there be added at the end these words:—

But it does not include either directly or as an element of such system or as within an undertaking or otherwise, and this paragraph does not extend to any manufacturing, mining, land or ocean marine service company, or the works, services or facilities of such a company.

Hon. Mr. CASGRAIN: What is the C.P.R.'s objection?

Right Hon. Mr. MEIGHEN: As will be remembered, Mr. Flintoft was anxious that we approach the definition another way, and specify directly what it includes, rather than be general in the definition and specify directly what it excludes. That object may possibly be attained, but we need to be very careful before doing it. In the meantime this amendment makes clear that from the beginning we have not intended that the definition shall include such companies as are here expressly excluded.

Hon. Mr. CASGRAIN: In other words, he means a federation instead of a confederation.

Right Hon. Mr. MEIGHEN: He wants the American system instead of the Canadian in defining "Pacific Railways". It "does not extend to any manufacturing, mining, land or ocean marine service company, or the works, services or facilities of such a company."

The CHAIRMAN: You have heard the amendment, gentlemen; what is your pleasure?

Hon. Mr. CASGRAIN: We are taking the property of the Canadian Pacific shareholders, and it is a very serious thing. If the company would sooner have the definition the other way I think we should meet their wishes.

Right Hon. Mr. MEIGHEN: We will try to; we have not succeeded yet.

The CHAIRMAN: You must bear in mind that you are not putting off the further amendment very much, for this Bill has had its second reading and has been before this committee.

Hon. Mr. CASGRAIN: What about the committee stage in the Senate?

The CHAIRMAN: It is a question whether we will go into committee stage. The Bill has gone before this committee possibly instead of Committee of the Whole.

Hon. Mr. STANFIELD: Could not an amendment be made on the motion to adopt the report of the committee?

Right Hon. Mr. MEIGHEN: That would mean a reference back to the committee.

Hon. Mr. SHARPE: Could we not hear Mr. Flintoft's argument now?

Right Hon. Mr. MEIGHEN: We heard it yesterday. There is no disagreement as to what we are aiming at. We do not want to adopt his method for fear we may make an error; he does not want to adopt ours for fear he may make an error. It is understood that the Bill is susceptible of amendment on third reading in this particular, it being clearly the intention that the definition shall include only such services as have correlative or corresponding services in the C.N.R. which are competitive, and therefore services in which mutual economies are possible.

Hon. Mr. BÉRIE: If there should be an error it can be corrected next Session.

Right Hon. Mr. MEIGHEN: Yes. I want that to be clearly understood. The same applies to the Canadian National Railways definition for that matter.

The CHAIRMAN: Shall this amendment be carried, with the understanding that if a better way out be found to express what is the meaning of this term, it shall be done on the third reading?

Hon. Mr. MURDOCK: Do I understand, Mr. Chairman, that ocean services and works in connection therewith are excluded?

Right Hon. Mr. MEIGHEN: Yes.

Hon. Mr. MURDOCK: Then the thought occurs to me, what about the tunnel under Quebec City and the facilities for the landing of the Empresses?

Right Hon. Mr. MEIGHEN: That is not excluded; that is a rail property in Canada.

Hon. Mr. MURDOCK: But was not that constructed directly on account of the Empress services?

Hon. Mr. CASGRAIN: It is part of the railroad.

Hon. Mr. MURDOCK: That is what I want to find out. I think it is part of the railroad. I heard the term "ocean services and works in connection therewith."

Right Hon. Mr. MEIGHEN: That is true, senator, but these services are not alone in connection with ocean services, they are in connection with rail services and coastal services, and so on. They are undoubtedly included, and if there is any question about it we will see that they are.

The CHAIRMAN: Those rails were laid down for the purpose of getting to the steamships, but they do not form part of the steamship service.

Hon. Mr. MURDOCK: If it was not for the steamship service the tunnel would not have been built and the rails would not have been laid.

The CHAIRMAN: They were anxious to have a terminal at the east end.

Right Hon. Mr. MEIGHEN: Mr. Flintoft would not have built their line to St. John but for the steamship services. Nevertheless that line comes under the Bill.

The CHAIRMAN: It seems to me it is a rail service to the wharves.

Is it your pleasure, gentlemen, that this amendment carry, on the understanding that if a more agreeable definition can be found it will be introduced on the third reading?

Some Hon. SENATORS: Carried.

The amendment was agreed to.

Right Hon. Mr. MEIGHEN: Mr. Chairman, there is one very small amendment that I wish to move to sub-clause (6) of clause 9. Sub-clause (6) reads at present:

No order, regulation, by-law, act, decision or proceeding of the Trustees shall require the approval of His Majesty or that of any shareholders of any company to which this section applies.

I move that the word "other" be inserted after the word "any" in the third line, to read "the approval of His Majesty or that of any other shareholders," etc. The purpose is to indicate that His Majesty is referred to here in his capacity as a shareholder.

The amendment was agreed to.

Sub-clause (6), as amended, was agreed to.

The CHAIRMAN: The committee passed the preamble some days ago, and there is now only the title to be dealt with.

Hon. Mr. CASGRAIN: There is no preamble to a public Bill.

The CHAIRMAN: Oh, yes. We have had the benefit of advice by the best authorities.

Right Hon. Mr. MEIGHEN: All that is left for consideration now is the title, as the Chairman says. Honourable gentlemen will see at the bottom of page 3 of the proposed amendment a proposed amendment to the title, but I do not think it is as good as the present title and I am not going to move the amendment. It will be seen that the proposed amendment was to delete the present title and substitute the following:

An Act to provide for co-operation between the Canadian National and Canadian Pacific Railway Systems and for other purposes.

But the Act is for more than that; it has special reference to the Canadian National in the constitution of its Board. The present title reads:

An Act respecting the Canadian National Railways and to provide for co-operation with the Canadian Pacific Railway System, and for other purposes.

I think this is better and I move its adoption.

The title was agreed to.

The CHAIRMAN: Shall I report the Bill?

Some Hon. SENATORS: Carried.

Right Hon. Mr. MEIGHEN: Before we disperse I should like to make a brief statement. This committee has been engaged for many weeks on what is undoubtedly the most important legislation that has come before either House for years, legislation which very clearly and emphatically required careful treatment by a committee. It was legislation that lent itself to committee work in a peculiar way, and I only speak what I know has been the general verdict of those of the public who have given attention to the labours of this committee when I say that the committee has gone about its task from day to day as a committee ought to do. There has never appeared at any moment an expression which indicated other than a desire on the part of every member of the committee to meet the public demands and to serve the public to the best of his capacity.

But I rose chiefly to say that we are indebted for the atmosphere that has surrounded the committee's work, for the spirit that has prevailed, for the expedition—all things considered—that we have been able to bring to bear, principally to the Chairman of this committee.

Some Hon. SENATORS: Hear, hear.

Right Hon. Mr. MEIGHEN: I question if any committee has ever been more favoured than this committee has in the services of its Chairman. The intelligence with which he has attacked every question, the impartiality and above all the spirit of fair play that he has exercised throughout, have been very commendable, and I hope I express on behalf of every member our sincere gratitude to him for the long, faithful and exceedingly able services he has rendered.

Some Hon. SENATORS: Hear, hear.

Hon. Mr. CASGRAIN: Mr. Chairman, naturally I echo everything of good that has been said about you, because you wrote such a nice article about me in your paper. (Laughter.) I want to add my congratulations—and I think I can say the congratulations of us all—to the Right Honourable Senator Meighen who has so ably and courteously piloted this piece of legislation. At times I asked some idle questions—

Some Hon. SENATORS: Oh no, no.

Hon. Mr. CASGRAIN: —but he was always patient and courteous. This is the most difficult piece of legislation that I have seen in the Senate in thirty-three years, and I think I may say, not only on behalf of those who are associated with me politically but also for the Conservatives, that we are deeply indebted not only to the Chairman but to the Right Honourable Leader of the Government in the Senate.

Some Hon. SENATORS: Hear, hear.

The CHAIRMAN: I want to thank Senator Meighen and Senator Casgrain for the kind words they have said about me. This has been the easiest committee I have ever tried to manage. If I could arrange it some time I should like to ask some one of you to preside over a meeting in which the majority are women. That chairman would have a real job on his hands. I echo everything that the leader of the Government has said about the work of the committee. The problems connected with this piece of legislation are so difficult and important that I began the job with a few misgivings, fearing that when the time came to get into close contact with the very spirit of the Bill there might be considerable trouble. But everybody has talked as long as he wanted to and it was easy to limit ourselves to the proper sphere when it became necessary to do so. I think we have done a good piece of work, one which will be approved by the people of Canada, and I would not be surprised if even the Commons thought it was good.

The committee concluded its sittings at 12.30 p.m.



